Mr. K. P. Kannan Nayar (*Secretary to Government*).—I second it.

Amendment was put and carried.

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—"*Delete the word 'himself' and the full stop occurring after the re-numbered section 32 and substitute for it the following*:—

'*or the tenant respectively*'."

It is only a verbal amendment to make the language more clear.

Mr. K. P. Kannan Nayar (*Secretary to Government*).—I second it.

Amendment was put and carried.

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—"*Delete paragraph 2 of the re-numbered section 45 and substitute for it the following*:—

'*In such suits, the Court shall, except as hereinafter provided, follow the procedure prescribed in the Cochin Code of Civil Procedure for the trial of small cause suits*'."

One sentence in the Bill as passed by the Council has been omitted, because it is redundant with the passing of the new Civil Procedure Code.

Mr. K. P. Kannan Nayar (*Secretary to Government*).—I second it.

Amendment was put and carried.

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—"*In the re-numbered section 46 omit the words 'notwithstanding ..... pending'*."

That has become unnecessary with the passing of the new Civil Procedure Code.

Mr. K. P. Kannan Nayar (*Secretary to Government*).—I second it.

Amendment was put and carried.

The Cochin Municipal Bill.

Mr. President.—The House will now resume consideration of amendments to the Cochin Municipal Bill from section 13.

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Mr. Eachara Menon's amendment is on the agenda paper. "*In section 13 (5) add 'and shall have nothing confidential apart from the Council in matters Municipal'.*"

The proper place for the amendment is not in this section.

Mr. A. Eachara Menon *(Chittur Rural).*—It is so. I withdraw the amendment.

Amendment was by leave withdrawn.

Section 13 as amended was put and carried.

Section 14 was put and carried.

Mr. T. S. Balarama Ayyar *(Trichur North).*—Before I move the amendment that stands in my name I desire to point out that the amendment relates to section 15 and section 15 has got a reference to section 34. There are two amendments to section 34—amendments 15 and 16. I therefore suggest that amendments Nos. 2, 3 and 4 may be taken up after the amendments Nos. 15 and 16 are disposed of.

Mr. President.—That is consequential amendments should be made.

Mr. T. S. Balarama Ayyar *(Trichur North).*—That will be a consequential amendment to amendments 15 and 16.

Mr. President.—The usual practice in dealing with amendments is, unless it is clearly shown that it is very difficult to take a decision on a particular amendment or a particular clause, it is not generally postponed. But what will be the effect of a subsequent amendment or a subsequent clause is immaterial. Suppose the amendment is accepted and subsequently the other amendment is carried, consequential amendments should be introduced.

Mr. V. K. Krishnankutty *(Anthikad).*—There is one difference. The power of suspending a resolution of the Council is given under section 34. If that amendment is accepted, there is no necessity for amending section 15. There is really a difference in the sequence which ought to have been made with regard to the power which ought to have come before.

Mr. President.—Then there should be really an amendment to section 34. If really the powers of the Commissioner to keep in abeyance a resolution of the Council is what you are contemplating in your amendment, the right place to move the amendment is section 34.

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Mr. V. K. Krishnankutty (*Anthikad*).—That is why we make the request that this amendment should be taken up first. Really, that is the substantial amendment. This will be a consequential amendment.

Mr. M. Sivarama Menon (*Ernakulam South*).—With your leave, I may be permitted to say a few words. Section 34 deals with the power to suspend action under the Act in a Chapter which deals with the powers of the Government. Section 15 deals with the powers of the executive authority, so that the one is put as the appellate authority. We find in certain places incongruities of this nature. But it cannot be helped. If the clause under section 34 in regard to suspension is to be avoided, then there is no scope at all for this amendment to come into play. That is the difference.

Mr. President.—The question is whether section 34 shall form part of the Bill.

Mr. T. S. Balarama Ayyar (*Trichur North*).—Section 34, sub-section 2 reads thus:—

"If in the opinion of the executive authority, immediate action is necessary on any of the grounds referred to in clause (c) of sub-section (1), the executive authority may suspend the resolution, order, license, permission or act as the case may be and report to Government who may thereupon...etc". That is this sub-section gives power to the executive authority to suspend the resolution, order, licence, etc., passed by the Council. My amendment is that instead of the words "executive authority" substitute "District Magistrate". I have got very strong objection in giving the executive authority who is only a servant of the Council to sit in judgment for however short a time it may be, over the decision of a body of more than 25 persons—a decision arrived at after mature deliberation. If power is given to a servant of the Council to suspend such a resolution, serious hitch is very often sure to occur between master and servant. To keep a resolution arrived at by the masters, in abeyance by a servant for however short a time it may be, is certainly very humiliating to the masters.

With your permission, Sir, I may briefly narrate the history of this section when it went through the British Legislative Assembly in Madras. In the first place, I may be permitted to point out that in the British District Municipalities Act the power to suspend such resolutions is vested in the Collector. What our Act now proposes to do is to bestow on the executive authority—a servant of the Council—a power which

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a Collector in Britsh India exercises. The Madras District Municipalities Bill when it was introduced by the Government in the Madras Legislative Assembly, contained this section giving the power to the Collector. When it went to the Select Committee which consisted of about 50 persons, they dropped down the amendment. They said it was humiliating to the Council to allow even a Collector to have power to keep the resolution of the Council in suspense. They also said that in cases where any breach of peace or the life of persons were concerned, the Collector as District Magistrate already possessed that power; he can keep that resolution in suspense, and therefore it is not right to give this power to the Collector by the Bill itself, because in that case an exercise of that power by the Collector cannot be questioned by the High Court. But when the Collector exercises his power as District Magistrate according to the Criminal Procedure Code, it is likely to be questioned by the High Court. Therefore, he will think twice before acting under the Criminal Procedure Code. Therefore it was that the Government wanted to give this power of suspension by the Municipal Act itself. But the select committee took objection to it and that section was dropped by the select committee. When the Bill was introduced in the House, the minister in charge re-introduced that section. There was a chorus of opposition against this section even though power was given only to the Collector and not the commissioner. They thought that the exercise of the power even by the Collector was humiliating to the Council. When the Minister re-introduced the section in the House, as I said, there was a chorus of opposition and when it was re-introduced the power of the Collector was even still wider. The sub-section as re-introduced said that the Collector could exercise that power 'in public interest.' That was seriously objected to by all the non-official members there. I remember having read Mr. K. P. Raman Menon speaking on this section. He said it was better to choose the lesser of the evils. If the Government will agree to restrict the power of the Collector, that is, to define specifically the power of the Collector in the matter of interference with the powers of the Council, he said, it was better to have a give-and-take policy. Mr. Raman Menon made it clear that if only the Congress members had not walked out, he would have stoutly opposed the retention of sub-section (2). If strong objection was taken to the exercise of that power by the Collector, who, I say, in virtue of the powers vested in him under the Criminal Procedure Code, already possesses that power, should we not take objection to an executive authority

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who is after all a servant of the Council, to exercise that power? Well, a resolution, as I said, passed after mature deliberation by more than 20 members of the Council to be kept in suspense by a servant of the Council, to me, it really appears to be very humiliating. Since we have no Collector in the State and since the functions of the Collector in this State are divided between the Diwan Peishkar and the District Magistrate—it is difficult to assign the function to both—I put in the words "District Magistrate". I may point out for the information of the House that in Travancore this power is exercised by the Diwan Peishkar. When I had an informal discussion with some of the Hon'ble Members of this House last evening, they suggested the insertion of the word "Chairman" in the place of the words "Executive Authority". I have absolutely no objection to substitute the word 'Chairman' for the words "Executive Authority". I request the Chair to permit me to change the wording of my amendment like this. *"In Section 34, sub-section (2), substitute the word 'Chairman' for the words 'Executive Authority' wherever they occur."*

Mr. President.—The Hon'ble Member is permitted to change the wording.

Mr. M. Sivarama Menon *(Ernakulam South)*.—Sir with regard to the amendments on the Municipal Bill tabled before this House, there was an informal discussion between the Hon'ble Members responsible for the amendments and a compromise has been arrived at with regard to the several amendments so that the Bill may have a speedy passage through this House. In the course of the discussion the mover of this amendment, the Hon'ble Member for Trichur, raised certain objections to the section as it stands and by way of a compromise it was proposed to substitute the word "Chairman" for the words "executive authority" in section 34 (2). Since Cochin is a small State and since there will be Commissioners appointed by the Government to perform the functions of the Chairman and because under section 34 Government have got ample reserve powers to suspend, stay or cancel any resolution, there is no harm in substituting the word "Chairman". As the Commissioner can immediately take the orders of the Government on any matter, there may be no necessity for this clause at all. Section 34 (1) reads, 'The Government may, by order in writing - (i) suspend or cancel any resolution passed, order issued, or license or permission granted; or (ii) prohibit the doing of any act which is about to be done or is being done in pursuance or under colour of this Act if in their opinion etc.',

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Therefore if the Municipal Council passes a resolution this evening the matter if reported immediately to Government, by the next morning an order of the Government can be had very easily. It was as a result of a compromise that this change has been effected in the amendment. By this the position becomes very clear. After all Government is not going to lose any authority over the Council. If the power is vested in the Chairman he too has to report to Government who may thereupon rescind the order of the Chairman or direct that it continues in force. By this the sentimental objection, if there is any, is also taken away. A servant of the Council should not have the statutory power of staying the resolutions passed by an elected body. We wish to know whether the Government is prepared to accept this amendment. It is not going to affect the powers of the Government in any way. The only difference is a difference in form and not in the substance. The Commissioner can bring the resolution or order to the notice of the Government immediately and the Government can issue a stay order in no time. In that way we looked at the matter and wish to place the matter before the consideration of the Government.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—If this change that is proposed would affect only section 34 *(2)* perhaps there may be some justification. This deals only with one of the sub-clauses of section 34. But section 34 *(1)*, sub-clause (c) to sub-section *(1)* deals with the following: 'the execution of such resolution or order, the continuance in force of such license or permission or the doing of such act is likely to cause obstruction, injury or annoyance to any person law fully employed or danger to human life, health or safety or is likely to lead to a riot or an affray'. These are really important matters. Let us also come back to section 15 A. Here we find 'The executive authority shall be bound to give effect to every resolution of the Council unless such resolution is modified, suspended or cancelled by Government.' I do not know if the Hon'ble Members who have brought an amendment to section 34 will not say that the officer who has to do these things under section 15 A should also be substituted by the word 'Chairman'.

Mr. T. S. Balarama Ayyar *(Trichur North).*—Very likely the Hon'ble Member was not listening to what was being said here. We said that we might be moving some consequential amendments to section 15 A also.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—I am considering whether those consequential amendments would also take this shape.

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Mr. M. Sivarama Menon *(Ernakulam South).*—There is no other section where we want to change the words 'executive authority' into the word 'Chairman'. This amendment is only a matter of sentiment—a mere formality. Under section 34 Government themselves have got full powers. The effect of this amendment will be only administrative and in all other respects there is no difference at all.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—I suppose I understood the Hon'ble Member for Trichur North saying that the words 'executive authority' occurring in 15 A will also have to be substituted by the word 'Chairman'.

Mr. T. S. Balarama Ayyar *(Trichur North).*—If this amendment is carried, amendments Nos. 2 and 3 in the Agenda will not be moved and amendment No. 4 alone will be moved. But in amendment No. 2 the words 'District Magistrate' occurring last will have to be changed into 'Chairman' and that is only a consequential amendment.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—That is exactly what I was saying. Whereas the amendment now before the House concerns only with one particular clause, section 34 (2), section 15 (a) deals with the entire clause 34 of the Bill.

Mr. T. S. Balarama Ayyar *(Trichur North).*—Even though section 15 makes mention of section 34, it clearly means only section 34 (c).

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—I think the Hon'ble Member is completely mistaken. Section 15 reads thus: 'The executive authority of the Municipal Council shall—

(a) carry into effect the resolutions of the Council provided that when the executive authority thinks that any resolution is open to objection on the grounds mentioned in section 34, the executive authority may suspend etc.' It cannot certainly mean section 34 (c). There are sevaral objections to section 34 which should induce any executive authority to take action like suspend or cancel any resolution passed order issued or license granted; etc. In this case as well as in (c) executive authority is given the power of staying the porceedings.

Mr. T. S. Balarama Ayyar *(Trichur North).*—To me it does not appear so. It is for the lawyer members to make that point clear.

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Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—The language is plain there. So how can the Hon'ble Member say that the only objection is to those in 34 (c)?

Mr. V. K. Krishnankutty *(Anthikad).*—There is no difficulty in adding in section 15 after 'section 34' '(2)' to make it clear and definite.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—But it will be seen that a specific function is given to the Government while another function is given to the executive authority under Section 15 A. These powers are subject to revision and control by the Government. Now under section 34 certain powers are primarily conferred upon the Government and certain other powers are conferred upon the executive authority subject again to the control of Government. How can we mix up these two sections. But since it has been definitely stated that this amendment will affect only section 34 there is no objection for substituting the word 'Chairman' for the words 'executive authority'. I do not know if I have made my point clear. Under Section 15 A the executive authority has to function in a specific manner and under section 34 his extensive powers are curtailed. But one thing I have to say. By such substitution the power of the executive authority for prompt action will be crippled. He will have to send up the resolution to the Government and do nothing at all till he gets orders from the Government.

Mr. T. S. Balarama Ayyar *(Trichur North).*—The members of the Council are also interested in giving effect to the resolutions passed in the Council.

Mr. Thomas Manjuran *(Government Advocate vnd Law Officer).*—I am not speaking of section 34 (2). I was saying that it will not be justifiable to make a similar substitution in Section 15 a.

Mr. V. K. Krishnankutty *(Anthikad).*—Section 15 A will have to be deleted.

Mr. President.—Even assuming that Mr. T. S. Balarama Ayyar's amendment to section 34 (2) is adopted, Mr. V. K. Krishnankutty's amendment is not necessarily a consequential amendment. That is the point that the Law Member is driving at. What the Government Member said is perfectly right. Section 34 (2) deals with the executive authority whereas section 15 confers upon the executive authority power to suspend the resolutions of the Municipal Council

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in other circumstances also. What we are given to understand is that Mr. Krishnankutty's amendment is a consequential amendment upon Mr. Balarama Ayyar's amendment.

We have to know where we stand. Even assuming that Mr. Balarama Ayyar's amendment to section 34 (2) is accepted by Government, Government do not agree with the contention that Mr. Krishnankutty's amendment is a consequential amendment

Mr. M. Sivarama Menon *(Ernakulam South).*—But that is not going to be moved, Sir.

If Government is not going to accept that position and Mr. Krishnankutty is going to press that amendment my position is that Iwill oppose the amendment for the intervention of the District Magistrate in any matter affecting Municipal administration.

Mr. V. K. Krishnankutty *(Anthikad).*—My amendment to section 15 (a) is a consequential amendment as contemplated by the Law Member.

Mr. T. S. Balarama Ayyar *(Trichur North).*—I will move my amendment, Sir.

Mr. President.—I think it is more logical to take section 15 first. It is always better to take it in the order given in the Agenda. Section 15 gives the executive authority a reserve power to keep any resolution of the council in suspense if in his opinion it is necessary to do so in certain circumstances and then submit the case for orders of Government. That is the main principle involved.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—I think that will be the better course. I move that the consideration of section 34 be postponed.

Motion was put and carried.

Mr. President.—The question is that clause 15 stand part of the Bill.

Mr. T. S. Balarama Ayyar *(Trichur North).*—Sir, before I move my amendment may I have the permission of the President to substitute the word 'Chairman' for the word 'District Magistrate'?

Mr. President.—Yes, permission is granted.

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Mr. T. S. Balarama Ayyar *(Trichur North).*—Section 15 (a) stands as follows: 'The executive authority of the Municipal Council shall (a) carry into effect the resolutions of the Council provided that when the executive authority think that any resolution is open to objection on the grounds mentioned in section 34 the executive authority may suspend the execution of the resolution and submit the case for orders of Government, who may then deal with the case under section 34. The executive authority shall be bound to give effect to every resolution of the Council unless such resolution is modified or suspended or cancelled by Government.' If the amendment that stands in my name is adopted the section will read 'the executive authority of the Muncipal Council shall (a) be bound to give effect to every resolution of the Council unless such resolution is modified or suspended or cancelled by Government or by the Chairman as the case may be.' I have taken the clue from section 22 of the Madras District Municipalities Act where the executive authority shall be bound to give effect to every resolution of the Council unless such resolution is modified suspended or cancelled by a controlling authority. The controlling authority according to the British Act is the Collector and the Government. With regard to the Collector he cannot cancel any resolution but he can keep the resolution in suspense. The Government only can cancel.

Mr. President.—Probably there are some governing clauses or defining clauses there.

Mr. T. S. Balarama Ayyar *(Trichur North).*—That difficulty can be got over if we amend the present amendment like this: '*every resolution unless it is suspended by the Chairman or modified, suspended or cancelled by Government.*'

The reasons for my amendment I have already explained and as the vesting of the power in the executive authority to suspend any resolution even for a short time will really be humiliating to the Council and as it is likely to lead to hitch between the master and the servant I move that the amendment be adopted.

Mr. A. Sankara Menon *(Trippunithura).*—Sir, instead of the words 'or by the District Magistrate as the case may be' 'or suspended by the Chairman' may be substituted so that the intention of the amendment may be given effect to. If it stands as it is Government will get the power of modification or cancellation under the section relating to the powers of Chairman. The powers of Chairman are gathered from the various sections. If the amendment stands as it is then the Chairman

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will get power of modifying or cancelling. To avoid that difficulty the words 'or suspended by Chairman' may be substituted.

Mr. President.—If every Hon'ble Member moves a verbal amendment we will not be able to get at the exact significance. It would mean that we are doing the work of the Select Committee here. We do not know what the consequences are. I am afraid I cannot allow such amendments.

Mr. T. S. Balarama Ayyar *(Trichur North).*—My amendment if adopted will read as 'be bound to give effect to every resolution of the Council unless such resolution is modified or suspended or cancelled by Government or the Chairman as the case may be.'

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—What will happen if the Chairman after suspension does nothing further?

Mr. T. S. Balarama Ayyar *(Trichur North).*—He is bound to act according to section 34. He cannot really suspend.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—There is provision in the section as it is for report to Government and Government deciding it. As such we cannot accept any half hand amendment.

Mr. President.—The amendment of Mr. T. S. Balarama Ayyar is imperfect.

Mr. V. K. Krishnankutty *(Anthikad).*—Another amendment will have to be moved where the Chairman will have to report the matter to Government.

Mr. T. S. Balarama Ayyar *(Trichur North).*—I do not move my amendment.

Amendment was by leave withdrawn.

Mr. V. K. Krishnankutty *(Anthikad).*—My amendment is "*In section 15 (a) 'carry into effect the resolutions of the Council' may be retained and the remaining portion deleted.*" The power given under section 15 (a) to the Commissioner is a temporary power, a power to stay certain proceedings pending orders of the Government. The conditions under which Government can suspend, rescind or cancel resolutions are given under section 34 of this Bill. Section 15 only gives a temporary power to the Commissioner. Now according to me there is a great relationship between section 15 and section

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34. They ought to be read together. I humbly say that there seems to be a confusion in the drafting of section 15 (a). Section 15 (a) only purports to give power to stay proceedings in urgent cases where immediate action is necessary under 34 (1) (c). Now Section 15 (a) should have made reference to that power which is conferred on the executive authority under section 34 (2). But instead of doing that section 34 has been simply added to section 15 (a). It ought to have been section 34(2). It is really a mistake in drafting. I will try to substantiate my arguments by a reference to the Madras District Municipalities Act as also to the Local Boards Act. The District Municipalities Act gives the District Collector powers under conditions similar to section 34(2). It is section 36(2) of the District Municipalities Act. The executive authority is not given any power to suspend the resolution of the Councils and the District Collector who is given authority to suspend resolutions under section 36(2) is not given authority to do so anywhere else. So that cases of resolutions, etc. to be suspended are contemplated only in section 36(2). Similarly the power to suspend a resolution is contemplated only under section 34(2) of our Act. The same is the case in the Local Boards Act too. There it is section 38(3). Nowhere in these Acts is power given to the collector or the executive authority to suspend resolutions of the Council. Section 34(1) is an exclusive section giving power to the Government only and not to the executive authority.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—We are dealing with section 15 and not section 34.

Mr. V. K. Krishnankutty *(Anthikad).*—I am dealing with section 15 where there is a reference to section 34. This is an extraordinary power conferred on the Government to safeguard against Democracy running amock. A large number of cases may crop up in which the executive authority may take into his head to suspend the resolutions of the Council. It should be taken as a matter of principle that a corporate body like a Municipal Council consisting of elected members of the locality will act in the interests of the public. This section contemplates only cases where such wide powers should not be given to the executive authority.

I move that my amendment may be accepted.

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri).*—Mr. President, Sir, I second the amendment moved by the member for Anthikad and in doing so I wish to place before

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this House these facts. Section 15 (a) as it stands gives the executive authority of the Municipality the power to go into cases covered by section 34(1) and of (2). Section 34 contains two clauses. Clause (1) deals with the powers of the Government as distinct from the powers of the executive authority. Clause (2) deals with the powers of the executive authority. Therefore 34(2) restricts the powers of the executive authority to particular cases only. The point of the amendment is that cases covered by 34(1) which go into the minutest details of every resolution passed by the Council may be left rightly with the Government. The executive officer is an officer with limited powers. He may deal with particular cases and not usurp the functions of the Government. That seems to be the purport of the amendment which says that that portion of Section 15 (a) commencing with the word 'provided' may be deleted leaving the clause (a) of Section 15 as 'the executive authority of the Municipal Council shall carry into effect the resolutions of the Council". That is a perfectly just position for the Council to take up. It only says that the executive authority of the Municipal Council shall not sit in judgment over the resolutions thereof. In extreme cases power of suspending the resolutions is given to the Government under section 34(1). That will be a sufficient check on the Municipality. Therefore I wholeheartedly support the amendment.

*Mr. C. R. Iyyunni *(Trichur South)*—Sir, if the interpretation that is put upon section 15 (a) by the member for Law is correct it means that the executive authority can suspend any resolution passed by the Municipality consisting of very respectable and intelligent people. If the hands of the executive authority are allowed to meddle in certain matters it will entail annoyance, inconvenience, safety to public and so on. With regard to the resolutions passed whether they are passed ultra vires or they are legally passed are questions which an ordinary man will find it difficult to say whether they are correct or not. Section 34(1) prohibits the doing of any act which is about to be done or is being done in pursuance or under colour of this Act. These things require expert knowledge with regard to law. There is no knowing whether the executive authority appointed is an expert in law. Again 34 (c) deals with the execution of such resolution or order the continuance in force of such resolution or order the continuance in force of such license or permission or the doing of such act as is likely to cause obstruction,

* Speech not corrected by the Hon'ble Member.

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injury or annoyance to any person lawfully employed or danger to human life, health or safety or is likely to lead to a riot or an affray. Suppose there are certain things which if carried will endanger safety. There must be some provision of law according to which the executive authority may have some power to interfere. With regard to other resolutions passed by the Council if power is granted under section 15(a) I say it is a retrograde step.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—That statement is entirely incorrect.

Mr. P. Sankunni Menon *(Elankunnapuzha).*—Who is to decide that?

Mr. C. R. Iyyunni *(Trichur South).*—I would like to know of a resolution which will not come under any of these. I wait for an answer.

Mr. President.—The Law Member will answer in the course of his reply.

Mr. C. R. Iyyunni *(Trichur South).*—Under an emergent condition it may be necessary for the executive officer to interfere to suspend the resolution or suspend granting of permission for something and he may report the matter to Government and the Government may pass final orders. If this man suspends every resolution of the Council we must be very careful in giving wide powers to this executive authority. I beg to submit that there is no knowing what that executive authority may not do.

Mr. T. S. Balarama Ayyar *(Trichur North).*—I like to say a few words on this amendment. If carefully read and if sympathetically read, it will be found there is a slight mistake in the drafting of section 15. I request the Government Advocate particularly not to take advantage of the mistake committed in drafting. I still maintain that correct drafting of 15(a) ought to have been that 'any resolution open to objection on the grounds mentioned in section 34 (2).' It ought to have been like that. Because if it is, as the Government Advocate holds, that the executive authority is given power to suspend any resolution for any of the reasons which come under any of the clauses under section 34, then what I hold is that section 34(2) would have been worded like this: 'If in the opinion of the executive authority immediate action is necessary on any of the grounds referred to above, the executive authority may suspend the resolution' if he really has got that power of suspending of any resolution referred to in section 34. If that is a power which

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he already possesses according to section 15, there is absolutely no necessity to restate that fact in sub-section (2) of section 34 and even if it was restated it would have been mentioned only like this:— 'If in the opinion of the executive authority, immediate action is necessary on any of the grounds referred to above, the executive authority may suspend the resolution.' In section 34(2 the power of the executive authority is restricted. If he has got powers to take action in any of the cases mentioned in section 34(1), section 34(2) would not have been worded in the way it has been done.

Mr. President.—I think the hon'ble Member is wrong. Section 15(a) confers upon the executive authority mere right of suspending resolutions if they fall under the categories of (a), (b) and (c) of section 34. Under section 15 we are simply suspending a resolution and reporting to Government. The executive authority cannot take any positive action. Under section 34(2) the executive authority can take positive action also. Because what is intended to be provided is in continuance of causing obstruction; injury or annoyance to any person lawfully employed or danger to human health or safety. If in the opinion of the executive authority immediate action is necessary on any of the grounds referred to in clause (c) he can also take necessary action. The section clearly contemplates that the executive authority beyond suspending the resolution does some positive Act. Section 15 does not provide for that. As an illustration, suppose there is some structure in the middle of the road which in the opinion of the executive authority is a danger to human life and suppose the Municipal Council refuses to remove the structure. Under section 34(2) the executive officer is empowered not merely to suspend the resolution of the Council but also to remove the obstruction. The language is clear. If he has to exercise that power under section 15 he has to report and get sanction. Without that he cannot remove the obstruction. Under section 34 he can remove that obstruction. That is the meaning of the section, otherwise 34(2) is redundant.

Mr. C. R. Iyyunni (*Trichur South*).—Suppose by a resolution of the Council it is resolved to remove that structure, the executive authority can suspend that resolution.

Mr. President.—Under section 15 the executive authority can only suspend the resolution and under section 34(2) he can not only suspend but take positive action also.

The House rose for lunch at 1—22 p. m. and re-assembled at 2-30 p. m. with the Deputy President (M. R. Ry., A. Sankara Menon Avl. B. A. & B. L.) in the Chair.

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Mr. T. S. Balarama Ayyar *(Trichur North)*.—Mr. President, Sir, the principal objection that I have in allowing section 15(a) as it stands now, is as regards the keeping of any resolution in suspense by the executive authority. It may perhaps be looked upon as a matter of sentimentalism. But I believe that sentiment is not a thing that can be altogether ignored. Therefore I am moving the following amendment to section 15:

In section 15, for sub-section (a) substitute the following:—

'The executive authority of the Municipal Council shall— (a) carry into effect the resolutions of the Council provided that when the executive authority thinks that any resolution is open to objection on the grounds mentioned in section 34, he may report to the Chairman who may suspend.....:...under sectino 34. The executive authority shall be bound ....by the Government.'

Mr. K. P. Kannan Nayar *(Secretary to Government)*.—If the Hon'ble Member has no objection, substitute 'shall' for 'may' and then the Government will readily accept it.

Mr. M. Sivarama Menon *(Ernakulam South)*.—I support the amendment moved by the Hon'ble member for Trichur. The preamble to the Act says that the attempt is to bring the legislation on a line with the British Indian Act on the subject. And if we look into the British Indian enactment on this subject, it will be found that there is no section corresponding to this section. Our section 15 corresponds to section 13 of the Madras District Municipalities Act and section 13 of the Madras Act lays down thus:—"The executive authority of the municipal council shall — (a) carry into effect the resolutions of the council"— so that the British Act simply says that the executive authority shall carry into effect the resolutions of the council and extra-ordinary powers are given to the Collector to stay such resolutions if it appears to him that they will lead to the disastrous consequences contemplated by section 34(2). Here in a small State like Cochin, there is no necessity for a controlling authority like the Collector in British India. The Government can exercise this extra-ordinary power here. The executive authority is appointed by Government. He is responsible to Government and the Council in the discharge of his duties. As a sort of compromise, therefore, I would suggest that the words 'executive authority' in section 15A may be changed into 'Chairman' and when that amendment is made there will be no necessity for changing the word 'may' into 'shall'. I therefore support the amendment as moved by Mr. Balarama Ayyar.

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Mr. A. Sivarama Menon *(Mulamkunnathukavoo).*—Why should 'may' be changed to 'shall'?

Mr. K. Achyuta Menon *(Diwan Peishkar).*—To make it more clear.

Mr. T. S. Balarama Ayyar *(Trichur North).*—The word 'may' cannot be changed. If 'shall' is substituted, it takes away the force.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—I do not think that any explanation on my part will clarify matters.

Amendment was put and carried.

Section 15 as amended was put and carried.

Mr. V. K. Krishnankutty *(Anthikad).*—The amendment intended to be moved by me is to make the executive anthority carry into effect the resolutions of the Council and also mentions what the Chairman should do if the executive authority makes a default in carrying out the resolutions of the Council. It is only a copy of section 35 of the District Municipalities Act which has been somehow not included in the present Bill. Section 35 of the District Municipalities Act reads thus: "If it appears to the district collector that the executive authority of a municipality has made default in carrying out any resolution of the council, the said collector, after giving the executive authority a reasonable opportunity of explanation, shall send a report thereon together with the explanation, if any, of the executive authority to the Local Government and at the same time forward a copy of the same to the Council".

Deputy President.—It is the second part that says what has to be done by the Chairman in case the executive authority does not carry out the resolutions of the Council. I think this is not the proper place to embody that amendment.

Mr. V. K. Krishnankutty *(Anthikad).*—I think otherwise.

Deputy President.—Then you can move your amendment.

Mr. V. K. Krishnankutty *(Anthikad).*—As I said before, my amendment is modelled on section 35 of the District Municipalities Act. As the Deputy President rightly pointed out the first sentence seems to be redundant. So I move only the latter part i. e.

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Between Section 15 and 16 added the following as Section 15 A:— "If it appears to the Chairman that the executive authority has made default in carrying out the resolutions of the Council the Chairman, after giving the executive authority a reasonable opportunity of explanation, shall send a report thereon together with the explanation, if any, of the executive authority to the Government and at the same time forward a copy of the same to the Council".

Here the executive authority is to be controlled by Government. On account of the amendment that we have passed now, the Chairman is given certain powers. How does it come in here? That is only the power of the Chairman. Similarly this also controls the authority of the executive authority and this amendment is quite in place here. I therefore formally move the amendment.

Mr. T. S. Balarama Ayyar *(Trichur North).*—I support this amendment and in doing so I have only to point out that, without going into the questions as to whether the appropriate place for this provision is here or elsewhere, the section is absolutely necessary. The corresponding section in the District Municipalities Act is section 35. Our Act contains a provision whereby Government may remove any chairman if he fails or refuses to carry out any resolution of the Municipal Council. But I do not find a similar provision in the Bill before the House in the matter of the executive authority. In the case where we have only a chairman the Government can remove him if he fails to do any of his duties. In the other case, when there is the executive authority to carry the resolutions of the council into effect there is no provision to deal with him, if he fails to do so; the British Municipalities Act does contain a provision to deal with the executive authority if he fails or neglects to do his duties. Mr. Krishnankutty's amendment is only a repetition of section 35, with this difference that in the British Act, power is given to the Collector and here to the Chairman. That is all the difference.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—Where do you wish this provision then?

Mr. V. K. Krishnankutty *(Anthikad).*—Under the head 'The Chairman and the Executive Authority'.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—Sir, the question is whether this amendment is unnecessary or necessary, because according to section 15, the Chairman or the Executive Authority shall carry into effect the

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resolutions of the Council, and if he does not carry them out, there are specific provisions in the Bill to deal with them. He could be removed by passing a vote of no-confidence in him. Even according to the amendment, the Chairman has to simply report to the Government if he finds that the executive authority has made any default. That is all. But if the Hon'ble Members think that it is very necessary to have such a provision, I do not think there is any very serious objection to it. The question is whether such a provision is redundant or not. The Government do not oppose the amendment.

The amendment was put and carried, thus carrying section 15A.

Sections 16 and *17 were also put and carried.*

Mr. V. K. Krishnankutty *(Anthikad).*—Section 18 defines the emergency powers of the executive authority. Very vide powers are given to the executive authority. The amendment seeks to restrict that authority to cases where the safety of the public is involved and not mere service. Service will include so many conditions and we do not want to give so many vide powers to the executive authority. I formally move the amendment which runs as follows:—

In Section 18, delete the words 'service or' occurring in the fifth line after the words 'necessary for the' and before the words 'safety of'.

There is another aspect which I wish to bring to the notice of the Government. There is another amendment tabled by my Hon'ble friend the member for Chalakkudi. If that is not opposed by Government, I do not intend moving my amendment. That amendment will minimise the evil.

Amendment was by leave withdrawn.

Mr. A. V. Mootheran *(Chalakkudi).*—Sir, I rise to move the following amendment:

Re- number clauses (a) and (b) of the proviso to section 18, as clauses (b) and (c) and insert the following as clause (a) to the proviso to the said section:— "(a) In the case of Municipalities having Commissioner as executive authority, he shall not act under this section, without getting the consent of the Chairman in writing".

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This amendment is unanimously supported by the non-official side. The power of the executive authority has to be minimised and controlled by the Municipal Council, and if it is not possible, always at least by the Chairman. In the case of emergency, the Commissioner is given wide powers. In some cases it is necessary. But some sort of control is absolutely necessary and for that purpose I have suggested that before acting under the section or in case of such emergencies, the Commissioner should consult the Chairman and get his consent. The Municipal Chairman can be approached at any time and his consent could be easily got. Therefore this amendment is very necessary.

Mr. V. K. Krishnankutty *(Anthikad).*—I second it.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—I regret I cannot accept that simply on that ground. In actual emergencies, there will be hardly any time to consult the Chairman who will be sometimes in the town or somewhere else. Suppose the Chairman is not within the municipal limits. The emergency will not wait for the return of the Chairman. The Hon'ble Members will please see that this provision is made more to safeguard the interests of the public than to safeguard the interests of the Government. If some sort of epidemic breaks out in the town, and the Chairman is absent on a visit to Madras, according to the amendment, in the absence of the Chairman, no steps could be taken to stamp out the diseases. Is it what the Hon'ble the mover of the amendment mean? The executive authority should have power for the immediate execution of what is necessary for the safety of the public. The executive authority is not an ordinary person. He has heavy responsibilities. Such a restriction would mean that the executive authority cannot act in emergencies. Government think that it should not be. The executive authority here is a servant. Over him the Municipality has got strict control. Over him the Government have also got control. If anything goes wrong, he could be dealt with. I submit that Hon'ble Members should not be carried away by the fetish argument that is put forward in the name of the so-called prestige of the Municipality. It is not possible for any Chairman to stick up to the four corners of the town expecting any emergency. Will you pass a law that a man who becomes the Chairman should never leave the town? I respectfully submit that it is absolutely impossible for any Government to ask any Chairman to do that. I am sure Hon'ble Members of this House who have had any practical expe-

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rience of the working of Municipalities will endorse this, difficulty.

Mr. A. V. Moothedan (*Chalakkudi*).—Is the Chairman so irresponsible?

മിസ്റ്റർ വി. കെ. കുട്ടി (*Muslims*).— മിസ്റ്റർ പ്രസിഡൻറ് സർ, ബഹുമാനപ്പെട്ട ചാലക്കുടി മെമ്പർ ഇവിടെ അവതരിപ്പിച്ചിരിക്കുന്ന ഈ ഭേദഗതി നിസ്സാരമായ ഒന്നാണെന്ന ബഹുമാനപ്പെട്ട ഗവമ്മെൻറ് പോലും മനസ്സിലാക്കിയിട്ടില്ലെന്നാണ് എനിക്ക തോന്നുന്നത്. മുനിസിപ്പൽ കൗൺസിലുകളിൽ പാസ്സാക്കാത്ത ചില സംഗതികളെപറ്റി അടിയന്തിരമായ ചില കാര്യങ്ങൾക്ക കൗൺസിലിൽനിന്ന തിരഞ്ഞെടുത്തിട്ടുള്ള ചെയർമാനോടുകൂടി ആലോചിക്കുവാൻ പാടില്ലെന്നുള്ള അത്ഥമാണ് ഒറിജിനൽ ബില്ലുകൊണ്ട കാണുന്നത്. അതായത് പകരം ഗവമ്മെൻറിനോട ആലോചിച്ച ചെയ്യണമെന്നാണ്.

മിസ്റ്റർ കെ. പി. കണ്ണൻനായർ (*Secretary to Government*).— ആലോചിച്ചല്ല; സമ്മതത്തോടുകൂടി ചെയ്യണമെന്നാണ്.

മിസ്റ്റർ വി. കെ. കുട്ടി (*Muslims*).— അതെ, ഒരു സംഗതി ഗവമ്മെൻറാലോചിക്കണം. സാധാരണ ഗവമ്മെൻറുമാത്രം ഭരിച്ചുകൊണ്ടിരിക്കുന്ന ഒരു നിയമത്തെയല്ല ഇവിടെ ഭേദഗതിക്കരിക്കുന്നത്. സ്വയംഭരണ സ്ഥാപനമെന്നപേരിൽ ഗവമ്മെൻറ് പൊതുജനങ്ങൾക്കുവേണ്ടി, അവരാൽ ഭരിക്കപ്പെടുന്നതിനുവേണ്ടി വിട്ടുകൊടുത്തിട്ടുള്ള ഒരു സ്ഥാപനത്തിനുവേണ്ടിയുള്ള നിയമമാണ് ഇവിടെ നിർമ്മിക്കപ്പെടുന്നത്.

ഡിപ്യൂട്ടി പ്രസിഡൻറ്.— ഈ അമെൻറ്മെൻറിനെപ്പറ്റി മാത്രമല്ലാതെ ഇവിടെ സംസാരിക്കാൻ പാടില്ല.

മിസ്റ്റർ വി. കെ. കുട്ടി (*Muslims*).—ഞാൻ അമെൻറമെൻറിലേക്കാണ വരുന്നത്. ബഹുമാനപ്പെട്ട ലാമെമ്പർ അവർകൾ പറയുന്നതുപോലെയുള്ള യാതൊരു ഭയങ്കരതയും ഈ ഭേദഗതിയിൽ ഇല്ല. ഇൻഡ്യയിലെ ഫ്രീ സംസ്ഥാനങ്ങളിൽ 5 സംസ്ഥാനങ്ങളും ഇന്ന ഭരിച്ചുവരുന്നത് കോൺഗ്രസ്സാണ്. ഇവിടെ സംശയിക്കുന്നതുപോലെയുള്ള യാതൊരാപത്തുകളും അവിടത്തെ ഭരണങ്ങളിൽ സംഭവിച്ചതായി ഞങ്ങൾ ഇന്നേവരെ കേട്ടിട്ടില്ല. സ്വയംഭരണ സ്ഥാപനങ്ങൾക്ക കൂടുതൽ അവകാശം കൊടുക്കുന്നത് രാജ്യത്തിന്ന ക്ഷേമകരമാണെന്ന ഇന്ന ബ്രിട്ടീഷിൻഡ്യയിൽ കോൺഗ്രസ്സ് പഠിപ്പിക്കുന്ന. അതുകൊണ്ട ആപൽക്കരമായ യാതൊരു സംഭവങ്ങളും പൊതുജനങ്ങളിൽ ഭരണം വിട്ടുകൊടുക്കുന്നതിൽ ഉണ്ടാകയില്ലെന്നുള്ള ബോധത്തോടുകൂടി ഗവമ്മെൻറ ഈ സംഗതിയിൽ പ്രവൃത്തിക്കണമെന്നാണ് ഞാൻ ഗവമ്മെൻറിനോടപേക്ഷിക്കുന്നത്. ലോകമൊട്ടാകെ തിരിച്ചുകൊണ്ടിരിക്കുന്ന ഒരു വമ്പിച്ച

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ഗവമ്മെൻറാണ് ഇന്ന ബ്രിട്ടീഷിന്ത്യയിൽ കോൺഗ്രസ്സിൻെറ കയ്യിൽ ഭരണം വിട്ടുകൊടുത്തിരിക്കുന്നത്.

ഡിപ്യൂട്ടി പ്രസിഡൻറ്— അമെൻറുമെൻറിനെപ്പററി മാത്രമേ ഇവിടെ സംസാരിക്കാൻ പാടുള്ളൂ എന്ന ഞാൻ മുൻപു പറഞ്ഞുവല്ലോ.

മിസ്റർ വി. കെ. കുട്ടി (*Muslims*).—ഞാൻ അമെൻറമെൻറിലേക്കാണ വരുന്നത്. എന്നാൽ ഇതിനെപ്പററിയൊന്നും പറയുന്നില്ല.

Mr. T. S. Balarama Ayyar *(Trichur North).*—To the proposition which the Hon'ble Member for Chalakkudi has brought forward, I shall move a small amendment. That is for removing the objection and difficulty pointed out by the Law Member and it is this:

Substitute for 'getting the consent of the Chairman in writing' 'bringing the matter to the notice of the Chairman in writing.'

Mr. A. Eachara Menon *(Chittur Rural).*—How can it be brought to the notice of an absentee Chairman?

Mr. A. V. Moothedan *(Chalakkudi).*—I have no objection in accepting the amendment.

The amendment as modified was put and carried.

Section 18 as amended was put and carried.

Mr. M. Sivarama Menon *(Ernakulam South).*—The amendment that stands in my name reads thus:

'Section 20 (3). Omit the word 'Government' occurring in line 2 and insert the word 'Council' in substitution.

The section as it now appears in the Bill is this. 'Subject to any directions given or restrictions imposed by the Government, the Commissioner may, by order in writing, delegate any of his functions to any officer or servant of the Council or to any officer of Government. The exercise or discharge of any functions so delegated shall be subject to such restrictions, limitations and conditions as may be laid down by the Commissioner and shall also be subject to his control and revision.' My amendment is to the effect that 'Government' in the second line may be changed to 'Council'. The reason is this. The Commissioners are appointed by Government under the new Act. The section says 'subject to the restrictions imposed by Government, the Commissioner may delegate his functions to any officer of the Government.' This would result in indirectly superseding the Municipality. In the British Act, it will be found in the corresponding section that the word 'Council' takes the place of the word 'Government'. If my

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amendment is given effect to it will be the Council who will be authorised to impose the restrictions, as otherwise the Government will be imposing the restrictions. The Government is to appoint the Commissioner, the Government is to impose restrictions, the Commissioner is to order delegation of functions and it is to a Government officer that the functions are to be delegated. Therefore, throughout, the Government has got control and the Council has nothing to do. Consistent with the law obtaining in British India, Government will have absolutely no hesitation in accepting this amendment.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—Will you please read the British section?

Mr. M. Sivarama Menon *(Ernakulam South).*—There, it is 'Council or Government'. You can very well adopt the same words here. I have no objection. The section is 18A (3) in the British Act. There it is 'subject to any directions given or restrictions imposed by the Local Government or the Municipal Council, etc.' That is all.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—So you are moving that amendment?

Mr. M. Sivarama Menon *(Ernakulam South).*—I move *In section 20 (3), substitute 'Government or the Municipal Council' for 'Government' in line 2.*

The amendment as modified was put and carried.

Section 20 as amended was put and carried.

Section 21 was put and carried.

Mr. A. Narayana Menon *(Vyttila).*—Sir, my amendment runs as follows:—

Omit the full stop after 'access' in section 22 (6) and add 'in which case the Councillor shall have a right of appeal to the Chairman and the decision of the Chairman shall be final whenever any such appeal is made to him'.

I do not think that any speech is called for at my hands. But it is agreed between representatives of the two parties here that it need not be here moved. So I do not move it.

Amendment was by leave withdrawn.

Sections 23 to 37 were put and carried.

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Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—Sir, I beg to move *that the following be inserted as section 37(A) after section 37:—*

'37A. The Government may direct by notification that any sum of money which may, in their opinion, be required for giving effect to their orders be lent from the public treasury at such rate of interest and on such terms as to repayment and otherwise as may be fixed for grant of loans from public funds to Municipalities generally'.

Hon'ble Members are already aware of the existence of a corresponding provision in British India. In British India, the District Municipalities have not been granted power of borrowing loans. Here a non-official amendment was moved for this purpose and we are moving this amendment more or less on the line. There is a provision in the Madras Local Board Funds Act under which the Government alone can lend money to the Municipalities and Municipalities can borrow from Government alone. This is a provision more or less on that line and I am sure Hon'ble Members will find no difficulty in accepting this.

Mr. K. P. Kannan Nayar *(Secretary to Government).*—I second it.

Amendment was put and carried thus carrying Section 37A.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—The next amendment is the introduction of section 37 B.

Introduce the following as section 37 B after section 37 A:—

'37 B. (1) The Municipal Council may, in pursuance of a resolution passed at a meeting specially convened in that behalf and with the sanction of the Government and in accordance with the rules framed by the Government, borrow, on the security of its funds or any portion thereof, from the Government or from any person or persons any sum of money required for the carrying out of any works of a permanent nature which it is legally authorised to carry out or for the repayment of money previously borrowed under this Act.

(2) Except as provided by sub-section (1) of this section and by section 37A no Municipal Council shall, for any purpose, borrow money upon or otherwise charge its funds; and any contract otherwise made for that purpose shall be void.

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(3) If any money borrowed in accordance with the provisions of this Act and any rules framed thereunder, or any interest or costs due in respect thereof, is or are not repaid according to the conditions of the loan, the Government, if themselves be the lenders, may, and if the Government are not the lenders, shall, on the application of the lender or lenders, attach the funds on the security of which the loan was made. After such attachment, no person except an officer appointed in this behalf by the Government shall in any way deal with the attached funds; but such officer may do all acts in respect thereof which the borrowers might have done if such attachment had not taken place, and may apply the proceeds in satisfaction of the loan and of all interests and costs due in respect thereof and all expenses caused by the attachment and subsequent proceedings:

Provided that no such attachment shall defeat or prejudice any debt for which the funds attached were previously pledged in accordance with law, but all such prior charges shall be paid out of the proceeds of the funds before any part of the proceeds is applied to the satisfaction of a liability in pursuance of which the attachment is made'.

Here borrowing should be made of course subject to certain restrictions imposed by Government. This provision is entirely based on a corresponding provision existing in the Travancore Regulation, V of 1095. Similar powers have been conferred upon the Madras City Municipalities by the City Municipalities Act. As regards the District Municipalities, they have not the power of borrowing from the outside. So I beg to move this.

Mr. M. Sivarama Menon *(Ernakulam South).*—There is no opposition. But one fact I wish to bring to the notice of the Government. It is that this section is too vague. It is doubtful if debentures can be issued by a Municipal Council on the authority of this section. To substantiate my point I wish to quote from Mr. Aiyangar's book at page 261. "The statutes also provide for the issue of debentures which are also expressly made negotiable. In the case of the issue of negotiable securities, the power must be expressly given. There is a marked distinction between the power to give a note to a lender for the amount of money borrowed, or to a creditor for the amount due, and the power to issue for sale in open market a bond, as a commercial security with immunity in the hands of a bona-fide holder for value from equitable defences. The power thus granted by statute must in its exercise be strictly followed. The courts adhere so strictly to the rule that the power to issue negotiable bonds must be expressly given, that every person dealing with a Corporation, it has been

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held many times, must at his peril take notice of the authority of the Corporation and its power and the terms of the law by which the power is supposed to be granted, even though such person be a bonafide holder for value of such securities." In this section, the issue of debentures is contemplated. Unless and until Government declare that no debentures shall be issued, there will be difficulties. If debentures are allowed to be issued then this power is insufficient.

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—Sir, I am well aware of the statement made by the Hon'ble Member for Ernakulam, that a Municipality cannot borrow unless borrowing powers are not given.

Those borrowing powers have been expressly given and these powers have stood the test of time. In fact, identical powers were conferred upon them in 1095. I will read the first clause so that Hon'ble Members may know what I mean.

"The Municipal Council may, in pursuance of a resolution passed at a meeting specially convened in that behalf and with the sanction of the Government and in accordance with the rules framed by the Government, borrow, on the security of its funds or any portion thereof, from the Government or from any person or persons any sum of money required for the carrying out of any works of a permanent nature which it is legally authorised to carry out or for the repayment of money previously borrowed under this Act."

That gives a very extensive power of borrowing. What form the debt itself should take will be prescribed by Government. I do not think there is need for any fear.

Mr. V. K. Krishnankutty (*Anthikad*).—I wish to add a few remarks to those already made by my Hon'ble friend the member for Ernakulam South. The question is whether a corporate body like the Municipality have got powers of borrowing, if such powers are not expressly conferred by the enactment creating the corporation. That was a very difficult question and several decisions have been arrived at when there was no express power of borrowing. Then it was held by certain courts that unless such powers were expressly granted and defined, the courts will take it that the corporations have no powers for borrowing. Further, if a general power to borrow is granted, under the Statute, it does not mean that the Municipality can borrow by debentures. For borrowing by debentures power should be expressly given stating the specific form of the loan.

Deputy President.—The matter has already been gone through by Mr. Sivarama Menon.

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Mr. V. K. Krishnankutty (*Anthikad*).—I myself had moved an amendment to an amendment when the Bill came up for discussion during the budget session and in that I had specifically given the power to borrow by debentures. In view of that amendment that phraseology could have been adopted.

Deputy President.—Order, order. There is no amendment to the section. The Hon'ble Member is not moving any amendment to the section. The difficulty has already been brought to the notice of this House by Mr. Sivarama Menon, the Hon'ble Member for Ernakulam South. I am afraid you cannot make any speech upon that matter.

Mr. V. K. Krishnankutty (*Authikad*).— I suggest the amendment that *after the word 'borrow' add the words 'by way of debenture or otherwise.'*

T. S. Balarama Ayyar. (*Trichur North*).—That is in the Travancore Act.

Deputy President.—The only question is whether those words can be added.

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—I have absolutely no objection.

Amendment as modified was put and carried, thus carrying section 37 B

Mr. T. S. Balarama Ayyar (*Trichur North*).—*In section 38, sub-section (1) delete the words 'without an excuse . . . . . Municipal Council or.'*

My amendment will only bring that section in line with the corresponding section in the British District Municipalities Act. Section 38 corresponds to section 40 of the British District Municipalities Act. If you accept my amendment it will read exactly as that.

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—I am afraid your amendment is not identical. 'Wilful' is the word used in the British Act. The language here is 'without an excuse'. The amendment of the Hon'ble Member for Trichur North is to omit the whole thing.

Mr. T. S. Balarama Ayyar (*Trichur North.*)—I have not been properly understood. As amended the section will read thus:—

"The Government may, by notification, remove any Chairman or Vice-Chairman if he disobeys the provisions of this Regulation or any rules

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orby-laws, regulations or lawful orders issued thereunder or abuses the powers vested in him."

Amendment was put and carried.

Section 38 as amended was put and carried.

Mr. V. K. Krishnankutty *(Anthikad).*—I move that *instead of the word 'Government' occurring in section 39 (1) (f) insert 'District Judge'.*

The only object of the amendment is to give the Court the authority to determine whether the conduct of the Municipal Councillor has been such as to endanger public peace, etc.

Mr. T. S. Balarama Ayyar *(Trichur North).*—In seconding the amendment I beg to bring to the notice of this House that any section corresponding to section 39 does not occur in the Madras District Municipalities Act. The power of removing individual councillors which Government had in the previous Act, was taken away from the Government, because it was thought that it may tend to curb the minority opinions. But that section finds a place in the Bill before us. In Mysore, I find the words "on the recommendation of the Council" inserted between the words 'may' and 'by'. That is to say, Government may take action under this section only if the Council recommends. There is at least that restriction. The absence of a similar section in the British Act, the presence of a restriction by way of recommendation of the Council in the Mysore Act and the presence of ample safeguards and provisions in sections 50 and 51 do not warrant the retention of section 39 here in our Act. Anyway by way of some sort of compromise, we agree to the retention of the section, as amended. But "if in the opinion of the Government" seems to be a dangerous weapon in the hands of the Government; whether his conduct will endanger the public peace or not is a matter which must be left to the decision of a judicial officer. Looking to the length to which the non-official side has advanced, I fully trust Government will have no objection to accept this amendment.

Amendment was put and negatived.

Section 39 was put and negatived.

Mr. Thomas Manjuran *(Government Advocate and Law officer).*—A Poll, Sir.

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POLL

Ayes.	Noes.
Mr. K. Achyuta Menon.	Mr. P. J. Alexander.
,, V. K. Achyuta Menon.	,, Ashtamoorthy Namburipad.
,, V. K. Aravindaksha Menon.	,, K. Ayyappan.
,, A. L. Devassy.	,, T. S. Balarama Ayyar.
,, P. J. George.	,, A. Eachara Menon.
,, K. P. Kannan Nayar.	,, K. M. Ibrahim.
,, K. Krishna Warriar.	,, C. R. Iyyunni.
,, Krishnan Vaidyan.	,, P. Govinda Menon.
Mrs. Meenakshi N. Menon.	,, T. K. Nayar.
Mr. I. N. Menon.	,, V. K. Krishnankutty.
,, K. Narayana Menon.	,, P. Kumaran Ezhuthassan.
,, T. Narayana Menon.	,, K. M. Kunhi Moideen.
Dr. A. R. Poduval,	,, K. Kunjirama Menon.
,, D. Raghavendra Rao.	,, C. P. Lonappan.
Rama Varmha Tampuran.	,, A. Narayana Menon.
Mrs. D'Souza Williams.	,, E. F. Norman.
Mr. Thomas Manjuran.	,, K. S. Panickar.
	,, T. A. Ramachandra Ayyar.
	,, Shabdai S. Koder.
	,, A. Sivarama Menon.
	,, M. Sivarama Menon.
	,, P. C. Varkey.
	,, A. V. Moothedan.

Section 39 was therefore lost.

Sections 40 to 43 were put and carried.

Mr. T. S. Balarama Ayyar (*Trichur North*).—*In section 44 for sub-section (i) substitute the following:—*

'(i) for the purposes of election of councillors to a Municipal Council, the Government, after consulting the Council, may, by notification, divide the Municipality into wards. One councillor shall be elected to each ward of the Municipality provided however that the Government, after consulting the Municipality, may increase the elective seats for any particular ward to more than one and alter such number from time to time'.

In practical working I do not think that Government will find any difference between the section as it is and the section

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as amended by my proposal. It will be found that item (b) of sub-section (1) is not in the Madras District Municipalities Act. It will also be found that according to the District Municipalities Act the general rule is that there is to be only one member for one ward and in some exceptional cases, Government can allow any particular ward to elect more than one member. Such a provision does not find any place in the Bill before the House. I will make my point clear. It will be clear from the British Act that the general rule followed by the British Municipalities is that one ward will have only one seat. In exceptional cases, Government can allow any particular ward to elect more than one member. Government retains the power for special reasons to permit any particular ward to elect more than one member. This will bring our own Act in line with the British Act. I may also explain the advantages that may be derived. It may be quite possible that Government will as a general rule stick to the practice of allowing one ward to elect only one member. We find that in Trichur there are many wards which are returning more than one member. I understand that even in Ernakulam that is the case. If instead of having two members for one ward, if the ward is divided into two areas and each area allowed to elect one member a greater sense of responsibility will be felt by each ward member. When there is more than one for each ward it is very unlikely that each member will carry out his responsibility properly. This provision will have the effect of concentrating on localising responsibility upon the members. Again this will open the door for minority communities to enter the council by direct election. The wards as now constituted in Trichur, a member of the minority community like the Ezhuva or the Tamil Brahmin can never hope to get in through the open door of election. If one ward is to return only one member, the number of wards will have to be increased from 7 to 28 in Trichur and it will then be almost possible for an Ezhuva member to get through the open door of election from Koorkancherry and from Thiruvambady and Pushpagiri for a Tamil Brahmin. It may also be possible for Muhammadans to get in from the Kokkalai side. These are the advantages and Government lose nothing, because the power of the Government to allow any particular ward for special reason, to elect more than one member is still there.

Mr. C. R. Iyyunni (*Trichur South*).—I second it.

Amendment was put and carried.

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Section 44 as amended was put and carried.

Clause 45 was put and carried.

Mr. A. Eachara Menon *(Chittur Rural).*— My amendment is to *omit section 46 (i) (c).* The object of this amendment is to have adult suffrage for the Municipality. If we have adult suffrage all the intending candidates will have to meet every one of the adult members of the Municipality for their votes. It will give them a lesson in public service. This will make them shed their false prestige. Further it will be a method of bringing down corruption for it is impossible to purchase the votes of a number of voters. It is for these benefits that I want adult suffrage for the municipalities .

Mr. M. Sivarama Menon *(Ernakulam South).*— The question has to be fought openly and considered on its merits. The question of adult suffrage was sought to be brought in at the Select Committee meeting. The question was discussed and we came to the conclusion that the granting of adult suffrage in Municipal elections at present will tend to add to the over heavy weigtage of the electorates. If sufficient materials are not placed to show that a workable scheme can be evolved, to my mind it appears that the introduction of adult suffrage will tend to make the election very very difficult. Without any statistics it will not be possible to argue either for or against adult suffrage. In the Select Committee the matter was raised by the Hon'ble the mover himself but it did not appear to us that he was seriously pressing the matter. Otherwise we could have considered that question in all its details and given our considered opinion also with regard to that.

മിസ്റ്റർ കെ. അയ്യപ്പൻ *(Ezhuvas South).*— സർ, ലജിസ്ലേറ്റീവ് കൌൺസിൽ ഏലക്ഷൻ അഡൽട്ട പ്രാഞ്ചൈസ് വേണമെന്ന പറയുന്ന സ്ഥിതിക്ക് മുനിസിപ്പാലിറ്റിയിൽ അതു നടപ്പാക്കുവാൻ യാതൊരു വിഷമവുമില്ല. മുനിസിപ്പാലിറ്റിക്ക് അഡൽട്ട പ്രാഞ്ചൈസ് കൊടുത്തില്ലെങ്കിൽ പിന്നെ ലജിസ്ലേറ്റീവ് കൌൺസിലിന് ഈ അഡൽട്ട പ്രാഞ്ചൈസ് ഏതുകാലത്താണു കൊടുക്കുവാൻ പോകുന്നതു? അതുകൊണ്ട അഡൽട്ട പ്രാഞ്ചൈസ് ആദ്യമായി ഏർപ്പെടുത്തേണ്ടതു മുനിസിപ്പാലിറ്റിയിലാണ്. അതിനെ എതിർക്കുവാനുള്ള ഒരു ന്യായവും കാണുന്നില്ല. നിയമസഭാ റീഫാം കാലത്തു മൊഴി കൊടുത്തിട്ടുള്ളവരായി ഇവിടെ വന്നിട്ടുള്ള മിക്കപേരും ഇതിനെ അനുകൂലിച്ചിട്ടുള്ളവരാണ്. മിസ്റ്റർ ബാലരാമയ്യരും മിസ്റ്റർ കൃഷ്ണൻകുട്ടിയും മറെറല്ലാവരും

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ഇതിനെ അനുകൂലിക്കേണ്ടവരാണ്. ഒരുപക്ഷേ വല്ല പ്രയാസവും ഏ റണാകുളം മുനിസിപ്പാലിറ്റി ചെയർമാനവർകൾക്കുണ്ടായിരിക്കാം.

മിസ്റ്റർ എം. ശിവരാമമേനോൻ (*Ernakulam South*).— അതൊന്നുമില്ല.

മിസ്റ്റർ കെ. അയ്യപ്പൻ (*Ezhuvas South*).— ഈ ഭേദഗതിയെ ഒരുപ്രകാരത്തിലും ആർക്കും എതിർക്കുവാൻ നിവൃത്തിയില്ല. അതുകൊണ്ട ഞാൻ ഇതിനെ ബലമായി പിൻതാങ്ങുന്നു.

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—Government's position is this. I wonder because the Hon'ble Member for Chittur as the Hon'ble Member for Ernakulam South said, did not appear to be very serious at the Select Committee—

(*The Hon'ble the President occupied the Chair at this stage*).

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—I am aware that during the passage of the Bill through the Select Committee while the question of adult franchise was mentioned once or twice nobody ever seriously put forward the question of adult franchise. No doubt we had to grant adult franchise to the Panchayats.

Mr. A. Eachara Menon (*Chittur Rural*).—Other Members had already expressed their opinion. Why should I be serious?

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—How the adult franchise is working in the Panchayats is known to many members here.

Mr. A. V. Moothedan (*Chalakkudi*).—It is working very satisfactorily.

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—Perhaps it is the experience of the Hon'ble Member for Chalakkudi. The all important question of an adult franchise was considered at the Select Committee and was dropped. And the provision for payment of any tax would be tantamount to saying that anybody who has been in the town for 120 days can vote. If Hon'ble Members vote one way or the other, I have only to say on behalf of Government that it will be a very important decision to decide one way or the other. Because while we may aspire the ideal condition of adult franchise we have to remember that the administration of important towns

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and cities will have to be entrusted to an uninformed body of people who may be easy victims of demagogues. I am afraid that is the case with several Panchayats. Whether that is the wiser course or that the minimum qualification of taxation should be maintained is the position before the Hon'ble Members of the House. They are of course entitled to have their own view. I only want to explain to the Hon'ble Members that to Government it appears that the position taken up by the Select Committee is the much wiser of the two. They have minimised all the qualifications. Short of going to adult franchise, anybody, any demagogue has only to collect and take them to vote probably without even having the least idea of what they are voting for. On the other hand, if he has some stake by paying a tax, he may have some interest. Those are the considerations which Hon'ble Members should bear in mind before voting on a matter like this. I would like Hon'ble Members will exercise their votes only after mature consideration.

Mr. K. M. Ibrahim *(Cranganur).*—I am afraid, Mr. President, that the argument of the Hon'ble Member is not at all convincing. According to him adult franchise has been reduced to a game of demogogues. If that argument holds good, I ask, however much be the progress that we attain in Cochin the same argument will hold good. In all advanced countries wherever this adult franchise has been now established the Hon'ble Member for Law's argument holds good if that is the correct position. There will be voters and there will be demogogues and when demagogues approach if all the voters are to be influenced by them and if that is an argument against adult franchise, I say, all the countries that have established adult suffrage are in the wrong. So also all the countries that will be establishing adult franchise and he alone as a great solitary exception will be in the right. I do not, Mr. President, grant the position that adult franchise as worked in our villages has been a failure. The Hon'ble Member for Law himself has not been able to prove his statement by facts and figures. Apart from a bare statement—"we all know how things are working in Panchayat"—has he been able to show a single proof that in our Panchayat elections, adult franchise is a failure? I may say that even if it is a failure in the Panchayat elections, is it an argument against adult franchise in a town where we are educationally more advanced? We are materially more advanced, we are politically more conscious. To compare the political surroundings in a town with a village is an absurdity on the face of it. Everywhere especially in the Cochin towns, the

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political consciousness of the voters of our towns is very very high. So even granting the position that our Panchayat elections are partially a failure, that is no argument against the adult franchise in a politically advanced atmosphere of our towns.

* മിസ്റ്റർ ടി. കെ. നായർ *(Pazhayannur)*.— അഡൽട്ട് പ്രാഞ്ചൈസ് കാര്യത്തെപ്പറ്റി ബഹുമാനപ്പെട്ട ലാമെമ്പർ അവർകൾ പഞ്ചായത്തിനെ സംബന്ധിച്ചു വിവരമുള്ള എല്ലാ മെമ്പർമാർക്കും അതു കൊണ്ടുള്ള ദ്രോഹം എത്രയുണ്ടെന്നു അറിയാമെന്ന് പറഞ്ഞ സ്ഥിതിക്കു ഞാൻ ഇതിനെക്കുറിച്ചു രണ്ടുവാക്കു പറയാമെന്നു വിചാരിക്കുന്നു. പഞ്ചായത്തുകളിലെ തിരഞ്ഞെടുപ്പിന് പ്രായപൂർത്തി വോട്ടവകാശം നമ്മുടെ ഗവമ്മെണ്ടു് അനുവദിച്ചു തന്നിട്ടുണ്ടു്. അപ്രകാരം പ്രായപൂർത്തി വോട്ടവകാശം അനുവദിച്ചുതന്ന ഗവമ്മെണ്ടിനോടു് തിരഞ്ഞെടുപ്പു കാര്യത്തിൽ ഒരു വോട്ടേഴ്സ് ലിസ്റ്റുണ്ടാക്കണമെന്നു ഞങ്ങൾ എത്രയോ കാലമായി മുറവിളിക്കൂട്ടി ഞങ്ങൾക്കു നല്ല പരിചയമായിക്കഴിഞ്ഞിട്ടുണ്ടു്. ഗവമ്മെൻറു് പഞ്ചായത്തിനു കൊടുത്തിട്ടുള്ള അധികാരം അവർ ശരിയായ വഴിക്കു നടത്തുന്നുണ്ടോ എന്നുള്ളതു കണ്ടുപിടിക്കാനുള്ള മനസ്ഥിതി ഗവമ്മെണ്ടിനുണ്ടായിട്ടില്ല. എങ്ങിനെയെങ്കിലും പറഞ്ഞിക്കണമെന്നാല്ലാതെ ചെയ്യുന്നതു നന്നായിട്ടു ചെയ്യണമെന്നുള്ള മനസ്ഥിതി ഗവമ്മെണ്ടിനില്ലാത്തതുകൊണ്ടു് പഞ്ചായത്തിലേക്കു് ഒരു വോട്ടേഴ്സ് ലിസ്റ്റു് തയ്യാറാക്കുവാനുള്ള സന്മനസ്സു് ഗവമ്മെണ്ടിനുണ്ടായിട്ടില്ല. ഞാൻതന്നെ ഇതിനെപ്പറ്റി എത്രയോ പ്രാവശ്യം ഗവമ്മെണ്ടിനോടാവശ്യപ്പെട്ടിട്ടുണ്ടു്. ഒടുവിൽ ഗവമ്മെണ്ടിനു് അതു ചെയ്യുവാൻ സാധിക്കുകയില്ലെങ്കിൽ പഞ്ചായത്തു മെമ്പർമാർതന്നെ ഒരു വോട്ടേഴ്സ് ലിസ്റ്റു് തയ്യാറാക്കുവാൻ അനുവാദം കിട്ടണമെന്നാവശ്യപ്പെട്ടുകൊണ്ടു് പഞ്ചായത്തു കാൺഫറൻസിൽ ഒരു പ്രമേയം പാസാക്കി. അതിനു ശേഷം ഗവമ്മെൻറു് അതു സ്വീകരിക്കുകയും ചെയ്തിട്ടുണ്ടു്. അങ്ങിനെ പഞ്ചായത്തുകളിൽ അഡൽട്ടപ്രാഞ്ചൈസു് നടപ്പാക്കുവാൻ സാധിച്ച ഗവമ്മെണ്ടിനു് ഒരാൾ മുനിസിപ്പാലിറ്റിക്കുള്ളിലുള്ള ആളാണോ അല്ലയോ എന്നറിവാൻ വേണ്ടിയുള്ള നിയമമുണ്ടാക്കുവാൻ അറിവില്ലെങ്കിൽ ആ സ്ഥാനം ഒഴിയാനുള്ള ഘട്ടമായി എന്നുമാത്രമേ പറയുവാനുള്ളൂ. ഗവമ്മെണ്ടിൻെറ ഈ മനസ്ഥിതി ഒന്നു മാറണം. മനസ്ഥിതി മാറുകയാണെങ്കിൽ അഡൽട്ട പ്രാഞ്ചൈസു് മുനിസിപ്പാലിറ്റികളിലും നടപ്പാക്കുവാനുള്ള സൌകര്യം തീർച്ചയായും ഉണ്ടാകും. വോട്ടെന്നുവച്ചാൽ എന്താണെന്നറിവില്ലാത്ത വില്ലേജുകളിലെ നിവാസികൾക്കു് അഡൽട്ടപ്രാഞ്ചൈസു് കൊടുത്തിട്ടുള്ള സ്ഥിതിക്കു് മുനിസിപ്പൽ പട്ടണവാസികൾക്കു് കൊടുക്കുവാൻ തരമില്ലെന്നു പറയുവാൻ നിവൃത്തിയില്ല. അതുകൊണ്ടു് കൊച്ചി ഗവമ്മെണ്ടിൻെറ

* Speech not corrected by the Hon'ble Member.

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അഭിപ്രായം അഡൽട്ട്ഫ്രാഞ്ചൈസ് പഞ്ചായത്തുകൾക്കു കൊടുക്കണമെന്നും പരിഷ്കൃതമായ മുനിസിപ്പാലിറ്റികൾക്ക് കൊടുക്കുവാൻ പാടില്ലെന്നും ആണെന്ന് പ്രശംസിച്ചു് ബോധ്യപ്പെടുത്താതിരുന്നാൽ കൊള്ളാം. അനുവദിക്കണമെന്നു തോന്നിയാൽ മാത്രമേ നിങ്ങൾ അനുവദിക്കുകയുള്ളൂവെന്നും ഞങ്ങൾക്കറിയാം. എങ്കിലും നിങ്ങൾ രാജ്യത്തിന്റെ പേരു കളയാതിരിക്കണമെന്നു മാത്രമേ എനിക്കപേക്ഷയുള്ളൂ.

മിസ്റ്റർ പി. സി. വക്കി (*Ernakulam North*).— പട്ടണവാസികൾക്കുപോലും പ്രായപൂർത്തി വോട്ടവകാശം കൊടുക്കാൻ പാടില്ലെന്നു ഗവൺമെണ്ടു വാദിക്കുന്നതു വിസ്മയാവഹവും പട്ടണവാസികൾക്കു വളരെ അപമാനകരവുമാണു്. പഞ്ചായത്തിനു് പ്രായപൂർത്തി വോട്ടവകാശം കൊടുക്കണമെന്നു തീർച്ചയാക്കിയ ഗവൺമെണ്ടു്, പട്ടണവാസികൾക്കു് അതു കൊടുക്കുകയില്ലെന്നു വാദിക്കുന്നതു് വാസ്തവത്തിൽ പട്ടണവാസികൾക്കു് അപമാനകരമല്ലയോ എന്നാണു ഞാൻ ചോദിക്കുന്നതു്. ഈ അമെൻറുമെൻറു പാസായാൽ പ്രായപൂർത്തി വോട്ടവകാശമാണു ഫലമെന്നു കണ്ടിട്ടു്, ആ ഒരു കാരണം പറഞ്ഞുകൊണ്ടു് ഗവൺമെൻറു് ഇതിനെ എതിർക്കുന്നു. ലോകത്തിൽ അകപ്പാടെ പ്രായപൂർത്തി വോട്ടവകാശമാണു് എല്ലാവരും ആഗ്രഹിക്കുന്നതും, പല പരിഷ്കൃത രാജ്യക്കാരും സ്വീകരിച്ചിട്ടുള്ളതും. വിദ്യാഭ്യാസം വേണ്ടിടത്തോളമുള്ള നമ്മുടെ രാജ്യത്തു്—സാക്ഷരതപം വിപുലമായിട്ടുള്ള ഈ രാജ്യത്തു്—മുനിസിപ്പാലിറ്റി തിരഞ്ഞെടുപ്പിനു് പ്രായപൂർത്തി വോട്ടവകാശം കൊടുക്കത്തക്ക യോഗ്യത പട്ടണവാസികൾക്കില്ലെന്നു പറയുന്നതു് രാജ്യത്തിന്റെ അഭിമാനത്തിനു ക്ഷതംവരുത്തുന്നതും നമ്മുടെ രാജ്യത്തെ ജനങ്ങളെ പൊതുവെ അപമാനിക്കുന്നതുമായ ഒരു പ്രസ്താവനയാണെന്നു പറയേണ്ടിയിരിക്കുന്നു.

ഞാൻ ഫ്രാഞ്ചൈസ് കമ്മിറ്റിയിലെ ഒരു അംഗമായിരുന്നു. കൊച്ചി രാജ്യത്തു് വിദ്യാഭ്യാസംകൊണ്ടും സമുദായനിലകൊണ്ടും പ്രമുഖന്മാരാണെന്നു ഗണിക്കപ്പെടാവുന്ന പലരും പ്രസ്തുത കമ്മറ്റിയോടു് ആവശ്യപ്പെട്ടതു് കൊച്ചിക്കാർക്കു പ്രായപൂർത്തി വോട്ടവകാശം കൊടുക്കണമെന്നാണു്. അതിനു അവർക്കു യോഗ്യതയുണ്ടെന്നും അവർ വാദിക്കുകയുണ്ടായി. അങ്ങിനെ പൌരന്മാരിൽ മുഖ്യരായ പല ആളുകളും മൊഴി കൊടുത്തിട്ടുണ്ടെങ്കിലും പോളിങ്ങു നടത്തുന്നതിനും മറ്റുമുള്ള ബുദ്ധിമുട്ടുകളും ചിലവും അധികമാകുമെന്നുള്ളതിനും പുറമെ ഗ്രാമവാസികളുടെയിടയിൽ വേണ്ടിടത്തോളം രാഷ്ട്രീയപ്രബുദ്ധതയുണ്ടായിട്ടില്ലെന്നുള്ള കാരണം പറഞ്ഞുകൊണ്ടാണു്, ഫ്രാഞ്ചൈസ് കമ്മിറ്റിയിലെ ഭൂരിപക്ഷമാളുകളും അതിനെ അനുകൂലിക്കാതിരുന്നിട്ടുള്ളതു്. എന്നാൽ ഇവിടെ ഞാൻ കാണുന്നതു് വളരെ വിസ്മയകരമായ ഒരു നിലയാണു്. സംസ്ഥാനമൊട്ടുക്കുമുള്ള പന്ത്രണ്ടു ലക്ഷം ജനങ്ങൾക്കും പ്രായപൂർത്തി വോട്ടവകാശം കൊടുക്കണമെന്നാവശ്യപ്പെടുമ്പോൾ, അതു് ഗവൺമെണ്ടിനു് വളരെ ബുദ്ധിമുട്ടുണ്ടാക്കുമെ

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ന്നും അധ്വകൃത വർഗ്ഗക്കാരായ ആളുകൾക്കും രാഷ്ട്രീയ പ്രബുദ്ധത പോരാ വിദ്യാഭ്യാസം പോരാ എന്നുമെല്ലാം ന്യായങ്ങൾ പറയുവാനുണ്ട്. നേരെമറിച്ച് പട്ടണവാസികൾക്ക് സാക്ഷരതപോലുമില്ലെന്നോ അവർക്ക് രാഷ്ട്രീയപ്രബുദ്ധതയില്ലെന്നോ പറഞ്ഞാൽ അതിനെ സമ്മതിച്ചുതരുവാൻ പട്ടണവാസികളായ ഞങ്ങൾക്കു നിവൃത്തിയില്ല. ഈ അമെൻറുമെൻറു പാസായാൽ പ്രായപൂർത്തി വോട്ടവകാശം പട്ടണത്തിൽ നടപ്പാകുമെന്നുള്ള കാരണത്തിന്മേലാണ് ഗവൺമെൻറ് ഭേദഗതിയെ എതിർക്കുന്നതെങ്കിൽ ഞാൻ ആ ഭേദഗതിയെ ശക്തിയായി പിന്താങ്ങുന്നു.

മിസ്റ്റർ പി. കുമാരനെഴുത്തച്ഛൻ (*Wadakkancheri*).— സർ, പ്രായോഗിക വശങ്ങളെപ്പറ്റി വേണ്ടപോലെ പരിചിന്തനം ചെയ്യുവാൻ ശീലിച്ചിട്ടുള്ള ഒന്നിലധികം മാന്യ മെമ്പർമാർ ഈ ഭേദഗതിയെ പിൻതാങ്ങിയിട്ടുള്ള സ്ഥിതിക്ക് എന്നെപ്പോലെയുള്ള ഒരാൾ തിരഞ്ഞെടുപ്പിനു പ്രായപൂർത്തി വോട്ടവകാശം കൊടുക്കണമെന്നുള്ള വിഷയത്തെ പിൻതാങ്ങി സംസാരിക്കേണ്ട ആവശ്യമുണ്ടെന്നു തോന്നുന്നില്ല. എങ്കിലും എന്റെ മനസ്സിൽ ഈ വിഷയം വളരെ കാലമായി വേരുറച്ചിട്ടുള്ള ഒരു പ്രധാനസംഗതി ആകയാൽ രണ്ടു വാക്കു പറയാമെന്നു വിചാരിച്ചതാണ്. പ്രായപൂർത്തി വോട്ടവകാശം കൊടുക്കുന്നതിനാവശ്യമായ പരിതസ്ഥിതികളെപ്പറ്റി യോഗ്യന്മാരായ ആളുകൾ അവരുടെ അഭിപ്രായങ്ങൾ ഇതിനുമുമ്പു രേഖപ്പെടുത്തീട്ടുണ്ട്. അതു നൽകുന്നതിനുള്ള ബുദ്ധിമുട്ടുകളെപ്പറ്റിയും ആ യോഗ്യന്മാർതന്നെ അഭിപ്രായങ്ങൾ രേഖപ്പെടുത്തീട്ടുള്ളതാണു. ഇതു രണ്ടും വച്ചുകൊണ്ടു നോക്കിയാലും മുനിസിപ്പാലിറ്റി എന്നു പറയുന്ന സ്ഥാപനത്തിൽ പ്രായപൂർത്തി വോട്ടവകാശം കൊടുക്കുന്നതിനു ഒരു പ്രയാസവും ഇല്ലെന്നുമാത്രമല്ല, കൊടുക്കാതെയിരിക്കുന്നതു മണ്ടത്തരത്തിൽനിന്നും അധികരിച്ച ഒരു ആക്ഷേപാർഹമായ പ്രവൃത്തിയാകയില്ലേ എന്നു സംശയിക്കേണ്ടിയുമിരിക്കും. കൊച്ചിരാജ്യക്കാർ പരിഷ്കൃതരല്ലെന്നു അടുത്തകാലത്തു ഒരു അഭിപ്രായം ഉൽഭവിച്ചിട്ടുണ്ടെങ്കിലും ആ ഉൽഭവസ്ഥാനത്തുനിന്നുതന്നെ കൊച്ചിരാജ്യം സാക്ഷരതപം ധാരാളമുള്ളതാണെന്ന് ഒരു അഭിപ്രായവും വകവച്ചു കിട്ടിയിട്ടുണ്ട്. അതുമുഴുവൻ ശരിയല്ലെങ്കിലും താരതമ്യേന സാക്ഷരതപം കൊച്ചിയിൽ അധികമുണ്ടെന്നു സമ്മതിച്ചേ തീരുകയുള്ളൂ. ഈ നിലയിൽ, സാക്ഷരതപമുള്ള കൊച്ചിക്കാരിൽ ഏതുതരത്തിൽ നോക്കിയാലും സാക്ഷരതപം വളരെ അധികമുണ്ടാവാൻ ഇടയുള്ള മുനിസിപ്പാലിറ്റിയുടെ വോട്ടിന്റെ കാര്യം പറയുമ്പോൾ പ്രായപൂർത്തി വോട്ടവകാശം കൊടുക്കാതിരുന്നാൽ എന്താണ് ആ അധികാരികളെപ്പറ്റി പറയേണ്ടതെന്നുള്ളതിൽ ഞങ്ങളിലാർക്കും അഭിപ്രായവ്യത്യാസമില്ല. അവർക്ക് അതിനു ശരിയായ ഒരു പേരുണ്ട്. തുറന്നുപറയുകയാണെങ്കിൽ എന്റെ മാന്യസ്നേഹിതൻ ബഹുമാനപ്പെട്ട പഴയന്നൂർമെമ്പർ പറഞ്ഞതുപോലെ

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അവരുടെ മനസ്ഥിതി ഒന്നു മാറണമെന്നുള്ള അപേക്ഷ മാത്രമേ അവരോടു ചെയ്യേണ്ടതുള്ളൂ. പ്രായപൂർത്തി വോട്ടവകാശം കൊടുത്താൽ ആകാശം ഇടിഞ്ഞുവീഴുകയില്ലെന്നു വേണമെങ്കിൽ ഉറപ്പുതരാം. പഞ്ചായത്തു തിരഞ്ഞെടുപ്പിനു പ്രായപൂർത്തി വോട്ടവകാശം നൽകിയതിൽ ആപത്തൊന്നും വന്നിട്ടില്ലാത്തതിനാൽ ഇതു ധൈര്യം പറയുന്നതാണു്. പക്ഷെ ഇതുകൊണ്ടു് ചില ബുദ്ധിമുട്ടുകൾ നിങ്ങൾക്കു വരാം. അതായതു് ചില പ്രത്യേക മിടുക്കന്മാർക്കു് മുനിസിപ്പാലിറ്റികളിൽ കടന്നുകൂടുവാൻ സാധിക്കാതാകും. ജനങ്ങളുമായിട്ടു ഇടപെടുവാനുള്ള മനസ്ഥിതിയും അവർക്കുവേണ്ടി ആലോചിക്കുവാനും പ്രവൃത്തിക്കുവാനുമുള്ള സന്നദ്ധതയും ഉള്ള മനുഷ്യർ മുനിസിപ്പാലിറ്റികളിൽ വരും എന്നുമാത്രമല്ല അവർക്കുമാത്രമെ വരുവാൻ സാദ്ധ്യമാകയുമുള്ളൂ. അതു വിരോധമാണെന്നുണ്ടെങ്കിൽ ഇതു കൊടുക്കരുതെന്നു എനിക്കുപേക്ഷയുണ്ടു്. അത്തരക്കാർ വരുന്നതിനു വിരോധം അല്പമെങ്കിലും ഇല്ലെങ്കിൽ സാക്ഷരതാ ഉള്ള കൊച്ചിയിലെ പട്ടണങ്ങളിലുള്ള സ്വയംഭരണസ്ഥാപനങ്ങൾക്കു പ്രായപൂർത്തി വോട്ടവകാശം വഴിയുള്ള തിരഞ്ഞെടുപ്പു അനുവദിക്കുകതന്നെ വേണം. ഇതിനു എതിരായി ന്യായം പറഞ്ഞു് അടക്കുവാൻ നിങ്ങളെക്കൊണ്ടു സാധിക്കുകയില്ല. അതിനാൽ ആ സാഹസത്തിനൊരുമ്പെടരുതേ എന്നാപേക്ഷിക്കുന്നു. പ്രായപൂർത്തിവോട്ടവകാശത്തിനെതിരായി ഇവിടെ പറഞ്ഞിട്ടുള്ള ന്യായങ്ങളിൽ പ്രധാനപ്പെട്ട ഒന്നു് വോട്ടർമാർ വളരെയധികമാകുന്നതുകൊണ്ടു് തിരഞ്ഞെടുപ്പു നടത്തുവാൻ വളരെ പ്രയാസമുണ്ടെന്നാണു്. മുനിസിപ്പാലിറ്റി തിരഞ്ഞെടുപ്പുകളിലും പഞ്ചായത്തു തിരഞ്ഞെടുപ്പുകളിലും നിയമസഭാതിരഞ്ഞെടുപ്പുകളിൽ പോലും വളരെ അധികം കാലമായിട്ടു വലിയ ആപത്തുകളൊന്നും ക്രടാതെ തിരഞ്ഞെടുപ്പു നടത്തി പരിചയമുള്ള കൊച്ചീക്കാർക്കു് ഇതിൽ യാതൊരു വിഷമവുമുണ്ടായിരിക്കയില്ല. മുനിസിപ്പാലിറ്റികളുള്ള ദിക്കുകളിൽ പോളിങ്ങ് ഉദ്യോഗസ്ഥന്മാരെ നിയമിക്കുന്നതിനും അവർക്കു വേണ്ട സഹായങ്ങൾ ചെയ്യുന്നതിനാവശ്യമായ ഗുമസ്ഥന്മാരെവെച്ചു് വോട്ടു നടത്തുന്നതിനും അതിനുവേണ്ട സ്ഥലസൌകര്യങ്ങളുണ്ടാക്കുന്നതിനും മറ്റേതു സ്ഥാപനങ്ങളേക്കാളും കൂടുതൽ സൌകര്യമുണ്ടു്. ഏകദേശം ആറോ ഏഴോ കൊല്ലമായി ഏതാണ്ടു് മുനിസിപ്പാലിറ്റിയോടു് അടുത്തുനിൽക്കുന്ന ഒരു സ്ഥാപനമായ പഞ്ചായത്തുകളിൽ വലിയ പ്രയാസമൊന്നും ക്രടാതെതന്നെ പ്രായപൂർത്തി വോട്ടവകാശവഴിക്കുള്ള തിരഞ്ഞെടുപ്പു നടക്കുന്നുണ്ടല്ലൊ. പഞ്ചായത്തുകൾക്കു പ്രായപൂർത്തിവോട്ടവകാശം കൊടുക്കുവാൻ നന്മനസ്സുണ്ടായ നമ്മുടെ നല്ല ഗവൺമെൻറു അതിലും കുറേക്കൂടി പരിഷ്കൃതമായ മുനിസിപ്പാലിറ്റിക്കു് പ്രായപൂർത്തി വോട്ടവകാശം കൊടുക്കണമെന്നുള്ള ഉപക്ഷേപത്തെ തീർച്ചയായും എതിർക്കാതെ ഇനിയെങ്കിലും സ്വീകരിക്കണമെന്നാണു് എനിക്കപേക്ഷിക്കുവാനുള്ളതു്. അതുകൊണ്ടു് ഞാൻ ഈ ഭേദഗതിയെ പിൻതാങ്ങുന്നു.

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Mr. K. Ayyappan *(Ezhuvas South).*—I move for a closure of the motion.

Mr. A. Eachara Menon *(Chittur Rural).*—Sir, if by accepting my amendment of introducing adult suffrage if the Government can drive their demagogues to the huts of these poor people what more perfect education than this can the Government give them. This will prove as the best mode of education that they can get. Another point raised is that I have not been sincere about my amendment. I spoke nothing there. Before I began they all said that it will be very difficult. So, what is the use of my saying anything to them. Then I thought that I would get a better opportunity here. That was the only reason.

Amendment was put and negatived.

Mr. A. V. Moothedan *(Chalakkudi).*—Poll, Sir.

POLL.

Ayes.	Noes.
1. Mr. P. J. Alexander	1 Mr. K. Achyuta Menon
2. ,, K. Ayyappan	2. ,, V. K. Achyuta Menon
3. ,, A. Eachara Menon	3. ,, V. K. Aravindaksha Menon
4. ,, K. M. Ibrahim	4. ,, M. V. Cherian
5. ,, T. C. Iyyukutty	5. ,, A. L. Devassy
6. ,, C. R. Iyyunni	6. ,, P. J. George
7. ,, V. K. Krishnankutty	7. ,, K. P. Kannan Nayar
8. ,, T. K. Nayar	8. ,, V. S. Krishnan Vaidyar
9. ,, P. Kumaran Ezhuthassan	9. ,, K. Krishna Warriar.
10. ,, K. M. Kunhi Moideen	10. ,, Rao Sahib I. N. Menon
11. ,, V. K. Kutty	11. ,, K. Narayana Menon
12. ,, C. P. Lonappan	12. ,, T. Narayana Menon
13. ,, T. A. Ramachandra Ayyar	13. Dr. D. Raghavendra Rao
14. ,, K. S. Panickar	14. Dr. A. R. Poduval
15. ,, P. C. Varckey.	15. Rama Varmha Tampuran
16. ,, A. V. Moothedan	16. Mrs. D'Souza Williams
17. ,, C. S. Viswanatha Ayyar	17. Mr. A. Sankara Menon
	18. ,, M. A. Sankunni
	19. ,, Shabdai S. Koder
	20. ,, A. Sivarama Menon
	21. ,, M. Sivarama Menon
	22. ,, Thomas Manjuran

Amendment was, therefore lost.

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Mr. A. Narayana Menon *(Vyttila).*—My amendment runs thus:—"*In section 46 cmit 'and' at the end of 1 (c) and substitute the following words, 'or has passed the S. S. L. C. Examination of Cochin or any like examination anywhere else or is an Ayurvedic practitioner recognised by the Government in this behalf or is the holder of any degree or license or having passed any examination in oriental languages recognised by any Indian Univerity or by the Government of Cochin*" and Now, I hope that this amendment will not be opposed by any section of this House. I am more or less sure that Government will not oppose it since it is this Government that passed the orders on the Franchise Committee's Report very recently. With regard to the non-official side, I am sure, I will not meet with any opposition since a large section had been contending for adult suffrage. Now, this is a via media. Of course, after adopting this change the next step will be to fight for adult franchise. I do not think any long speech is required at my hands. I commend this amendment to the acceptance of this House.

Mr. M. V. Cheriyan (*Mattancheri South*).—I second it.

മിസ്റ്റർ വി. കെ. കുട്ടി *(Muslims)*.— ഞാൻ ഈ ഉപക്ഷേപത്തെ എതിർക്കുന്നു. സ്ത്രീഫൈനൽകാക്ക് വോട്ടവകാശം അനുവദിക്കുന്നപക്ഷം — നിയമസഭയെപ്പോലുള്ള ഒരു സ്ഥാപനമല്ല മുനിസിപ്പാലിറ്റി — ഞങ്ങളെപ്പോലെയുള്ള അവശസമുദായങ്ങൾക്ക് ആ സ്ഥാപനത്തിൽ ഏതെങ്കിലും വിധത്തിലുള്ള ഒരു പ്രാതിനിധ്യം ലഭിക്കണമെന്നുദ്ദേശിക്കുന്നതായാൽ സ്ത്രീഫൈനൽസു വോട്ടവകാശം അനുവദിക്കുന്നതുകൊണ്ട് വലുതായ ദോഷം സംഭവിക്കുന്നതായിരിക്കും. പ്രായപൂർത്തി വോട്ടവകാശം അല്ലാതെ അതിൽകുറഞ്ഞ കപ്പാളിഫിക്കേഷൻസ് ഞങ്ങളെ കണക്കിലേറെ ഉപദ്രവിക്കുന്നതാണെന്നുള്ള ബോധമാണ് ഞാൻ ഈ ഭേദഗതിയെ എതിർക്കുന്നത്. ഇപ്പോൾ എന്തെങ്കിലും ഒരു നികുതി കൊടുക്കുന്നവർക്കും വോട്ടവകാശമുണ്ട്. അതു വിട്ടാൽ പ്രായപൂർത്തി വോട്ടവകാശമെന്നല്ലാതെ മറ്റു യാതൊരുവിധമായ ഭേദഗതികളോടും എനിക്കു അനുകൂലിക്കുവാൻ നിവൃത്തിയില്ല. അതുകൊണ്ട് ഞാൻ ഈ ഭേദഗതിയെ വലിയ പ്രസംഗമൊന്നുംകൂടാതെ എതിർക്കയാണുചെയ്യുന്നത്.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—Government do not oppose that.

Amendment was put and carried.

Mr. A. Eachara Menon *(Chittur Rural).*—My amendment is *in section 46 (1) (c) omit "except tax on dogs."*

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Every body who pays tax is enfranchised. Those who pay tax on buffaloes, those who pay tax on ass, etc., have all got the right of voting. Why not extend this right similarly to those who pay tax on dogs a domestic animal? The Government Member may say that he will consider the matter very well. Government Members should understand that this is an anomaly which should be set right.

Mr. C. S. Viswanatha Ayyar *(Chittur-Tattamangalam Town)*—I second it.

Mr. M. Sivarama Menon *(Ernakulam South).*—Sir, I oppose this amendment. The reason why I oppose this amendment is not because that I am not fond of dogs. The reason is plain. The license fee for a dog which the owner has to pay is only 8 annas. If a rich man wants to get 300 votes it is enough if he spends Rs. 150 and secure licenses for dogs in the names of different persons. Verification by Municipal Officers whether the applications for license are bonafide is an impossible task. I would never have opposed this amendment if it is within human possibility to verify ownership. As one who has some experience in this line, I would take a concrete example. Suppose A applies for a dog license. Before issuing the actual license, an enquiry has to be conducted whether he is in possession of the dog. Under the Act we have to do that within the stipulated time. If there are 300 such applicants we may take it that we may require 2 or 3 Sanitary Inspectors for enquiry. There is no rule that dogs should be chained always. It might so happen that when the Sanitary Inspector goes, the owner of the dog might say that the dog is straying. He has to wait till the dog returns. This very provision in the District Municipalities Act led to constant abuses. I placed before the Select Committee a copy of the order issued by the Madras Government on the subject where the attention of the Commissioners of the Municipalities of British India was specifically drawn to the abuses that were rampant there on account of this provision. It was even suggested that if the Councils were prepared to increase the tax to Rs. 2 per dog it may be a palliative for the evils and other modes also were suggested. Therefore what I beg to bring to the notice of the Hon'ble House is if you want to give a vote to the person who pays 8 annas take away the qualification that he must be the licensee of a dog; but hold that every person who pays annas eight can be given a vote. With regard to Rickshaws he has to pay Re. 1—8—0 as license fee. Under the Hackney Carriage Act the

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vehicles have to be registered by the Commissioner of Police and badges also have to be issued to the persons who are pulling these rickshaws. Verification about ownership of rickshaws is hence easy. With regard to dogs it is found practically impossible to verify whether a person is a bogus owner or a real owner. One another factor is that every year we are destroying a good number of ownerless dogs. Even last year, we destroyed more than 1000 and every year we are doing it. As soon as these dogs are destroyed, other dogs take their place and the result is the town is always full of dogs. The Municipality has to spend a lot of money for anti-rabic treatment. The treatment is free to the person who is not able to pay. They are also to be paid 4 annas per day for their maintenance while under treatment. There is an abundance of stray dogs always in the town. If there are persons who may be prepared to spend money they can claim ownership on any number of such dogs and get votes. This qualification is liable to be abused to the largest extent possible. Of course we are also strengthened by the experience of the other Municipalities in British India. Not only on the ground of the abuses that this will lead to but also on account of other grounds I maintain that the amendment is not necessary.

Amendment was put and lost.

Section 46 was put and carried.

Section 47 also was put and carried.

Mr. A. Eachara Menon *(Chittur Rural).—In Section 48 (2) omit 'and no teacher in an aided School'.*

The cry for enlargement of franchise we hear from every quarter of the globe. Why should we alone propose to have a retrograde measure? It is necessary that the Members of a Municipal Council should be as enlightened as possible. The teachers are expected to be enlightened. The attack on the present system of education is that those who come out of schools are wanting in character and a knowledge of citizenship. The target of attack is the poor teachers. If they are not given full liberty for self expression and are confined only to the seclusion of the class room what else can you expect of them. Character cannot be infected or taught. It has to be assimilated by contact with a teacher of character. Teachers should be models to their pupils. If these teachers have no sense of civic responsibility how could their students have any idea of it? What

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is the object of education if it is not service to the country? How can the boys be turned out to be better citizens by a teacher who is deprived of taking any part in civic administration and who has not intimate knowledge of the kind of life the peoples lived in the vicinity of his school.

Mr. P. J. Alexander *(Palluruthi).*—I support it.

Mr. M. V. Cherian *(Mattancheri South).*—Sir, I oppose this amendment. Now if all salaried teachers whether in the Government service or in aided schools are entitled to vote, it will be perfectly right that the aided school teachers are also given the right to vote. Now Government teachers are not allowed to become Councillors. Therefore my contention is that the aided school teachers who receive a grant of 14 annas in the rupee from the Government for their pay should not be allowed to stand as Councellors. That is the proposal which I place before the House. My experience shows that in cases where the teachers have become councillors they have gone out of their way at the time of election. When a school teacher stands for election he is likely to unduly influence parents through the students and at the same time he might take some coercive steps also. Thus the students are placed in a sad plight. My experience of a teacher shows that he used to reject offers for tuition and he was always very particular in getting into the Council and often he goes for check measuring and other works. My submission is that the teacher has no sufficient time to look to his teaching duty. He should not have anything to do with politics and should not go for check-measuring and petition inquiry sacrificing his time that should be devoted for teaching. My submission is that grant in-aid teachers come under the category same as salaried teachers of the Government and should be prevented from standing as Municipal Councillors.

Mr P. J. Alexander *(Palluruthi).*—In supporting this amendment I have only to reply to the charge made by the Hon'ble Member for Mattancheri that aided school teachers can influence the election through their students. The same argument will hold good in the case of vakils also because they can exercise influence through their clients. If this amendment is passed, I think the vakils also have to be excluded, so also the doctors. So I support the amendment.

Mr. A. V. Moothedan *(Chalakkudi).*—I strongly support this amendment. If in the Legislative Council election teachers can stand and become members, I cannot understand why the

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aided school teachers cannot stand for election in Municipalities. There is no point in that objection. The abuses and objections pointed out by my friend for Mattancheri are possible in other cases also. These are therefore not real objections. There is some principle in saying that Government officers cannot stand for election and that cannot be applied to a teacher in a private school.

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri).*—May I know the reason why the aided school teacher is excluded?

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—It was done by the Select Committee.

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri).*—May I know why?

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—The Select Committee thought that they should be excluded.

മിസ്റ്റർ വി. കെ. കുട്ടി *(Muslims)*— ഞാൻ ഈ ഭേഗതിയെ എതിക്കുന്നു. ഈ വിഷയത്തിലും മുമ്പു ഞാൻ വിവരിച്ചതിലും കൂട്ടതലായി ഒന്നുംതന്നെ പറയുവാനില്ല. വോട്ടവകാശസംബന്ധമായ അധികാരങ്ങളിൽ സക്കാരുദ്യോഗസ്ഥന്മാർ പ്രവേശിച്ചു് ഉപദ്രവമുണ്ടാക്കുന്നുവെന്ന മുറവിളി ഇവിടെ ധാരാളമുണ്ടു്. എയിഡഡ് സ്കൂൾ അദ്ധ്യാപകന്മാക്കുകൂടി കൌൺസിലിൽ നിൽക്കുന്നതിന്നു അനുമതി കൊടുക്കുന്നതുകൊണ്ടു വിരോധമില്ലെങ്കിലും മുനിസിപ്പാലിറ്റിക്കു യാതൊരു കരവും കൊടുക്കാതിരിക്കുന്നവക്കു വോട്ടവകാശം കൊടുക്കത്തക്ക മറ്റൊരുവിധ കപാളിഫിക്കേഷനും ഇവിടെ എടുത്തുകൂടെന്നാണു് ഞാൻ പറയുന്നതു്. ഈ സംഗതിയിലും എനിക്കു മുമ്പുപറഞ്ഞ അഭിപ്രായം തന്നെയാണുള്ളതു്. അതുകൊണ്ടു ഞാൻ ഈ ഭേഗതിയെ എതിക്കുന്നു.

മിസ്റ്റർ പി. കുമാരനെഴുത്തച്ഛൻ *(Wadakkancheri)*— സർ, ഗവമ്മെൻറുഗ്രാൻറു വാങ്ങുന്ന വിദ്യാലയങ്ങളിലെ അദ്ധ്യാപകന്മാക്കു മുനിസിപ്പൽ കൌൺസിലർമാരായിക്കൂടെന്നു പറഞ്ഞതിൻെറ കാരണം അന്വേഷിച്ചപ്പോൾ സിലക്ററു കമ്മിറ്റി അങ്ങിനെ വേണ്ടെന്നു വിചാരിച്ചു എന്നുമാത്രമാണു് പറഞ്ഞുകേട്ടതു്. സിലക്ററു കമ്മിറ്റിയിലെ ഒരു അംഗമാണു് ഇതിനെ എതിത്തതും. അദ്ദേഹം പറഞ്ഞകാരണങ്ങളും കൊണ്ടായിരിക്കാം സിലക്ററു കമ്മിറ്റി ഇതു വേണ്ടെന്നു വച്ചതു്. ബഹുമാനപ്പെട്ട മട്ടാഞ്ചേരിമെമ്പർ ഇവിടെ പറഞ്ഞതു് അദ്ധ്യാപകന്മാരെ മെമ്പർമാരാകുവാൻ അനുവദിക്കുന്നതായാൽ അവർ വിദ്യാർത്ഥികളുടെ സഹായത്തോടുകൂടി വോട്ടുകിട്ടുവാൻ

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വേണ്ടി ശ്രമിക്കും, സാധാരണയായി മുനിസിപ്പാലിറ്റി സംബന്ധമായ പല പ്രവൃത്തികളിലും അവർ ഏർപ്പെടുവാനിടവരും എന്നാണ്. വോട്ടുകിട്ടേണ്ട ആവശ്യത്തിന് ഗവൺമെൻറിൽനിന്ന നിയമപ്രകാരം അനുവദിച്ചിട്ടുള്ള സകല പദ്ധതികളും ഉപയോഗിക്കുവാൻ വോട്ടിന നില്ക്കുന്ന എല്ലാപേക്കും അധികാരമുണ്ട്. ഉദ്യോഗസ്ഥന്മാർ അവക്ക പ്രവേശിക്കുവാൻ പാടില്ലാത്തനിലയിൽ പ്രവേശിച്ചു പ്രവൃത്തിക്കുന്നപക്ഷം അവർ അദ്ധ്യാപകന്മാരായാലും ആരായാലും ആക്ഷേപാർഹരാണെന്ന മാത്രമല്ല ശിക്ഷാർഹരുമാണ്. അതുകൊണ്ട് വിദ്യാർത്ഥികൾവഴി വോട്ട സമ്പാദിക്കുവാൻ അധികം സൌകര്യമുള്ളവരാണ് അദ്ധ്യാപകന്മാർ എന്ന കാരണം പറഞ്ഞു് അവർ മുനിസിപ്പൽ മെമ്പർമാർ ആകുവാൻ പാടില്ലെന്ന പറയുന്നതിൽ അർത്ഥമില്ല. അയാൾ ചെക്ക മെഷറിന പോയാൽ എന്താണ് അബദ്ധമുള്ളത്? കുറെ വിവരമുള്ള രൊൾ അതിൽ പ്രവേശിക്കുന്നപക്ഷം അറിവില്ലാത്തവരേക്കാൾ കൂടുതൽ ഭംഗിയായി ആ ജോലിചെയ്യും എന്ന അബദ്ധമേ ഉള്ളൂ. മുനിസിപ്പൽ കൌൺസിലർമാരാകുന്നവക്ക് മുനിസിപ്പൽ സംബന്ധമായ ജോലികൾ കൊടുത്താൽ അതും ചെയ്യേണ്ട കടമ അവക്കുണ്ട്.

ഇവിടെ ആലോചനയിലിരിക്കുന്ന വിഷയം ഗ്രാൻറു സ്കൂൾ അദ്ധ്യാപകന്മാക്ക മുനിസിപ്പാലിറ്റി തിരഞ്ഞെടുപ്പിന നിൽക്കാമോ എന്നുള്ളതാണ്. മുനിസിപ്പാൽ കൌൺസിലറൊ, പഞ്ചായത്തുമെമ്പറോ നിയമസഭാ സാമാജികൻതന്നെയൊ ആകുന്നതിന്ന ഇപ്പോൾ അവക്ക അവകാശം ഉണ്ടെന്നും നാം ഓർക്കേണ്ടതുണ്ട്. ആ സ്ഥിതിക്ക ന്യായമായ കാരണത്തിന്മേലല്ലാതെ അദ്ധ്യാപകന്മാരെ ഇതിൽനിന്നും മാറ്റി നിറുത്തുവാൻ പാടുള്ളതല്ല. അങ്ങിനെയുള്ള യാതൊരു കാരണങ്ങളും ഇവിടെ പറഞ്ഞുകേൾക്കാത്ത സ്ഥിതിക്ക് അദ്ധ്യാപകന്മാരെ മുനിസിപ്പൽ തിരഞ്ഞെടുപ്പിൽനിന്ന മാറ്റി നിറുത്തുവാൻ പാടില്ലെന്നുള്ള ഈ ഭേദഗതിയെ ഞാൻ പിൻതാങ്ങുന്നു.

Mr. M. Sivarama Menon *(Ernakulam South).*—The Members of the Select Committee are now invited to state the reason why aided school teachers are not allowed to take part in Municipal elections. The main reasons which induced the Select Committee to come to that conclusion were two. First of all by the mingling of teachers in this kind of politics, which cannot be said to be on a par with regard to elections to the Legislative Council, their attention towards the children will not be uniformly bestowed in the way in which they are expected to do. Secondly, there is no difference between an aided School teacher and a Government school teacher because the Government out of Government funds give pay to these teachers. The only difference is that the aid is distributed through the agency of the managers. The amendment is certainly in the interests

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of the student population and it was inserted on account of certain instances of evils brought to the notice of the Select Committee by the Hon'ble Member for Mattancheri. As this is a matter affecting the rights of teachers in aided schools I invite the member in charge of Education to give his opinion. In the interests of the students the members of the Committee thought that they should be excluded, and we had certain facts for that. But the member in charge of Education must have had opportunities to come in contact with teachers who might have taken part in Municipal elections and as a matter of fact if he is for allowing them to stand for elections to the local bodies without any prejudice to the student population, I am prepared to modify my views. I would invite the member in charge of Education to give us his valuable opinion.

Rao Sahib I. N. Menon *(Director of Public Instruction).*—I must stoutly decline the invitation extended to me by the Hon'ble Member for Ernakulam. This is not a question of Education at all and the privilege just now enjoyed by the teachers is as a result of representations made by the Cochin Teachers Association. On educational grounds I can say that Teachers do not protect their citizen duties whether paid directly by Government or by private agencies. At the same time the civil service should not have anything to do with matters like this. It is very difficult for an educationist like me to pronounce an opinion on this subject. And therefore I must stoutly refuse the invitation extended to me.

Mr. A. V. Moothedan *(Chalakkudi).*—Are teachers of aided schools allowed to become Panchayat Members?

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—Yes.

മിസ്റ്റർ കെ. എസ്സ്. പണിക്കർ *(Ezhuvas North).*— മുനിസിപ്പൽ കൌൺസിലർമാരായി തിരഞ്ഞെടുപ്പിന്നു നില്ക്കുന്നതിൽനിന്നു ഗ്രാൻറു സ്കൂൾ അദ്ധ്യാപകന്മാരെ പുറന്തള്ളി നിറുത്തുവാനുള്ള കാരണമെന്താണെന്നു് സിലക്ററു കമ്മിറ്റിയിലെ ഒരു അംഗത്തോടു ഞാൻ ചോദിച്ചപ്പോൾ അദ്ദേഹം പറഞ്ഞ ന്യായം ഗവൺമെൻറിൽനിന്നു ഗ്രാൻറു വാങ്ങുന്ന അദ്ധ്യാപകന്മാർ മുനിസിപ്പാലിറ്റിയിൽ കൌൺസിലറായി വന്നാൽ ഗവൺമെൻറിനു് അവരെ സ്വാധീനപ്പെടുത്തുവാൻ കഴിയും, അതുകൊണ്ടാണു് അവരെ പുറന്തള്ളാൻ തീരുമാനിച്ചിട്ടുള്ളതെന്നാണു്. ഇതു് എനിക്കു് അദ്ദേഹത്തിൽനിന്നും സ്വകാര്യമായി ലഭിച്ച അറിവാണു്. ഗ്രാൻറു സ്കൂൾ അദ്ധ്യാപകന്മാരല്ലാത്തവർക്കുടി അ

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ങ്ങിനെയുള്ള പൊതു സ്ഥാപനങ്ങളിൽ അതായതു നിയമസഭ, പഞ്ചായത്ത്, മുനിസിപ്പൽ കൌൺസിൽ മുതലായ സ്ഥാപനങ്ങളിൽ അംഗങ്ങളായി വന്നാൽ അവർ ഗവമ്മെൻറിന്റെ സ്വാധീനത്തിൽപെട്ടപോകുന്നതു് നാം എവിടെയും കാണുന്നുണ്ടു്. ആ സ്ഥിതിക്കു് ഗ്രാൻറു സ്സ്കൂൾ അദ്ധ്യാപകന്മാരെ മാത്രം അങ്ങിനെ വിചാരിക്കുന്ന മനോഭാവം ശരിയല്ല. ഗ്രാൻറു സ്സ്കൂൾ അദ്ധ്യാപകന്മാർ പലവിധത്തിലുള്ള അസമത്വങ്ങൾ അനുഭവിച്ചു വരുന്നുണ്ടു്. അവക്കു് പഞ്ചായത്തുകളിലും നിയമസഭയിലും അംഗങ്ങളായിരിക്കാമെങ്കിൽ രണ്ടിനും മദ്ധ്യത്തിൽ കിടക്കുന്ന മുനിസിപ്പാലിറ്റിയിൽ അംഗമാകുവാൻ പാടില്ലെന്നുള്ളതിന്റെ ന്യായം എനിക്കു മനസ്സിലാകുന്നില്ല. ഗ്രാൻറു സ്സ്കൂൾ അദ്ധ്യാപകന്മാർ മറു പലതരത്തിലുള്ള അസമത്വങ്ങൾ അനുഭവിക്കുന്നതുപോലെതന്നെ അവരെ രാഷ്ട്രീയമായ കാര്യങ്ങളിലും പുറന്തള്ളുന്നതു ശരിയല്ല. അവർ പഞ്ചായത്തുകളിൽ അംഗങ്ങളായിവന്ന ഗവമ്മെൻറിനെ ശക്തിയായി എതിർത്തിട്ടുള്ളതായി എനിക്കറിയാം. ഈ നിയമസഭയിൽത്തന്നെ ഒരു ഗ്രാൻറു സ്സ്കൂൾ അദ്ധ്യാപകൻ മെമ്പറായിരുന്നുകൊണ്ടു് ഗവമ്മെൻറിനെ എതിർത്തു പലപ്പോഴും വോട്ടുചെയ്തിട്ടുണ്ടു്. അതുകൊണ്ടു് ഗ്രാൻറു സ്സ്കൂൾ അദ്ധ്യാപകന്മാർ മുനിസിപ്പാലിറ്റിയിൽ കടന്നാൽ മുഴുവനും ഗവമ്മെണ്ടുഭാഗമാകും എന്നു പറഞ്ഞു തള്ളുന്നതു നീതികരിക്കത്തക്കതല്ല. അങ്ങിനെ തള്ളുന്നതു് ഗ്രാൻറു സ്സ്കൂൾ അദ്ധ്യാപകന്മാരോടു പൊതുവെ ചെയ്യുന്ന ഒരു വലിയ അപരാധമാണു്. അതുകൊണ്ടു ഭാവി പൌരന്മാരെ സൃഷ്ടിച്ചുവിടുന്ന അദ്ധ്യാപകന്മാരെ ഇവ്വക രാഷ്ട്രീയ പ്രസ്ഥാനങ്ങളിൽ പങ്കെടുപ്പിക്കണമെന്നും അതിനുള്ള സൌകര്യം അവർക്കുണ്ടാക്കിക്കൊടുക്കണമെന്നുമുള്ള അഭ്യർത്ഥനയോടുകൂടി ഞാൻ ഈ ഭേദഗതിയെ പിൻതാങ്ങുന്നു.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—Sir, the Government are constrained to oppose this amendment. Several reasons have been said for and against this amendment. The Government consider that on account of the fact that a good portion of the pay of these teachers are granted by Government, they have to be treated as Government servants. Government consider that it is unhealthy to allow the teachers to mix up in Municipal bodies.

Amendment was put and lost.

Sections 48 to 50 were put and carried.

Mr. M. Sivarama Menon *(Ernakulam South).*—Sir, I rise to move the following amendment:—

In section 51, sub-section (1), 2nd line, instead of the word 'is' after 'Councillor' insert the words 'was or has become'.

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The section as at present worded is to the following effect:- "Whenever it is alleged that any person who has been elected as a Councillor is disqualified under sub-section (1) of section 48, 49, 50 or 53 and such person does not admit the allegation, etc." The section as described is in the present tense. This section has been the subject matter of a decision of the Madras High Court and the case is reported in 57 M. L. J. at page 241 where this change is considered desirable among certain other changes. Their Lordships observe that "A disqualification under section 49 of section 50 of the Madras District Municipalities Act of an elected candidate can be a ground for petition impugning the election under rule 1 and rule 11 (c) of the rules for the decision of disputes as to the validity of an election held under the Act. Section 51 of the Madras District Municipalities Act only applies to cases where the election has gone through without challenge and something has occurred thereafter which raises doubts about the qualification of some sitting councillor, in other words it applies only to a stage after a candidate has been duly elected". In trying to interpret this section the learned judges observe that it is highly desirable that there should be verbal changes. The matter was referred to a Full Bench and the observations of Justice Wallace are to the following effect:—"As usual the Act fails to indicate clearly the answer to be given". The wording of section 51 is unhappy. It is not said who are the persons who may allege that the elected councillor is disqualified or in what form or manner the allegation is to be made, or how or when the person challenged is called on to admit the allegation. Again the present tense 'is disqualified' in sub-section (1) cannot be aptly used of section 49 since it refers to the present state of the Councillor who has been elected, whereas section 49 refers to his prior state on the date of the nomination, election or appointment.

The same remark applies to the same term in sub-section (2). It is also not clear what differentiation if any is intended between 'is disqualified' in reference to an allegation by outsiders and 'has become disqualified' in reference to the doubts of the Councillor. Are the doubts of a Councillor remediable in Law only when they relate to a period after his election and not when they relate to the period of nomination or actual election. However, the general sense of the section seems to be that when any question arises whether a person elected as Councillor was disqualified under section 49 at the time of nomination or election or has since the election become disqualified under section 50 the matter should be moved before the District Judge by a Councillor or the Chairman. The question is whether that section is exhaustive so that the ordinary voter when the election has resulted in the election of a

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candidate whom he regards as disqualified cannot agitate that matter in an election petition. It would seem strange if he could not and unless the act and the rules make it abundantly clear that he cannot I could hold that no such prohibition exists.

Sir, my point is that by using the word 'is disqualified' it refers to something that transpired after the election. The language in the Madras Act was defective but a sensible interpretation was given by the Court by including both cases. The Madras Act has been subsequently amended and to avoid difficulties I think it is better to make this point clear. Section 49 deals with disqualification of candidates. Suppose the disqualification is after he is elected. Then also the council must have power to bring these matters to the notice of the Executive authority. Therefore if we include both, it will be perfect. I do not think that the Government need oppose this amendment because it is only to correct a defect in the Bill.

Mr. Thomas Manjuran *(Government Advocate and Law Officer)*.—An amendment to section 51 (2) also is necessary.

Mr. M. Sivarama Menon *(Ernakulam South)*.—With the permission of the Chair I may be permitted to move the following amendment:—

In section 51 (2) for the word 'is' after the word 'person' substitute the words 'was or has become'.

Amendments were put and carried.

Mr. T. S. Balarama Ayyar *(Trichur North).—Between the numbers 48 and 49 insert the words 'or sections'.* This amendment is only a grammatical correction.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—That may be allowed.

Amendment was put and carried.

Mr. M. Sivarama Menon *(Ernakulam South).—In section 51 (1) after the word 'he' insert the words 'was or'.* This is only a consequential amendment.

Amendment was put and carried.

Sections 51 as amended was put and carried.

Sections 52 to 63 were put and carried.

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Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—Sir, I move the following amendment:—

Insert the following after section 63 as section 63A.—

"63A. Notwithstanding anything contained in this Act—

(a) The Government may by notification take power to appoint the health officer or the Municipal Engineer in the case of any Municipality or class of Municipalities. (b) The Government may recover from the Municipal Council concerned the whole or such portion of the salary and allowances paid to any Health Officer or Engineer and such contribution towards his leave allowance pension and provident fund as the Government may by general or special order determine; (c) The Government may at any time withdraw any such Health Officer or Engineer and appoint another in his place; and (d) the Government shall have power to regulate the methods of recruitment, conditions of service, pay and allowances and descipline and conduct of the Health Officers and Engineers appointed under clause (a)"

Section 63 of the bill as reported by the Select Committee contains some provisions that relate to the appointments in Municipalities. The amendment proposes to confer power on the Government to appoint Health Officers and Engineers in cases that may not directly come under section 63(1). For instance a council may not have resolved to appoint a Health Officer or a Municipality may not have an income of one hundred thousand rupees. Even in such cases it is quite possible that there may be necessities to appoint a Health Officer. The Government want to take that discretion in their hands to be used in cases of emergencies. It is only intended to cover such cases. Now a corresponding provision contains in section 72 of the Madras Act. There the power to make these appointments is reserved with the Government but they do not exercise the power vested in them. Here no such expressed provision is made. Suppose there is a violent attack of plague. There will be hardly any time for the Government to wait till the Council meets. Normally then may not be any necessity for a Health Officer but an emergency may arise where the services of a Health Officer will be absolutely necessary. Suppose an epidemic occurs in the Chittur Municipality all on a sudden. Government have got a duty to perform to the citizens of that place. It is only to cover such cases of emergencies that this section is required.

Mr. A. Sivarama Menon *(Mulankunnathukavu).*—What is the objection in copying the British Municipalities Act.

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Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—I thought that Hon'ble Members had already raised serious objections to copying. This has been subsequently introduced in the Madras Dist. Municipalities Act. Therefore this is only a copy of that Act.

Mr. A. Sivarama Menon *(Mulankunnathukavu).*—There is no objection if some proviso or some change is introduced, in odrer to make clear the bona fides of the Government.

Mr. President.—To make that point clear *the words 'ask a Municipality to appoint a Health Officer or a Municipal Engineer and in case the Municipality fails to do so' may be added between the words the 'Government may' and 'by notification'.* Some such changes may be made to that clause.

The amendment as modified was put and carried.

Section 63 A as amended was put and carried.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*— I move the following amendment:—

Insert the following as section 63 B after section 63 A:—

"63A. (1) Notwithstanding anything contained in this Act or any rule thereunder Government shall have power to transfer any officer or servant of a municipality to the service of any other municipality: provided that that power shall be exercised after consulting the Municipal Councils concerned.

(2) Government shall have power to issue such general or special directions as they may think necessary for the purpose of giving due effect to transfers made under sub-section (1)."

Mr. K. P. Kannan Nayar *(Secretary to Government).*— I second it.

Amendment was put and carried thus carrying section 63 B.

Sections 64 to 66 were put and carried.

The House rose for the day at 5-5 p. m.

B. V. KRISHNANKUTTY MENON,

Secretary to the Council.

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